

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

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

**Representative Calvert**

**Senators Harris, DiDonato, Carnes, Jacobson, Blessing, Goodman,**

**Fingerhut, Miller, Mallory, Prentiss, White**

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**A B I L L**

To amend sections 9.01, 9.83, 101.34, 101.72, 101.82, 1  
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121st General Assembly, as subsequently amended;	250
to repeal Section 3 of Am. Sub. S.B. 238 of the	251
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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  
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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  
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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  
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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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5745.02, 5745.04, 5747.02, 5747.12, 5747.31, 5901.021, 6101.09, 401  
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  
5739.034 and sections 9.24, 107.12, 107.31, 107.32, 107.33, 413  
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5115.14, 5115.22, 5123.196, 5123.198, 5123.1910, 5123.38, 432  
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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

**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

unresolved unless one of the following criteria applies: 512

(1) The money identified in the finding for recovery is paid 513  
in full to the state agency or political subdivision to whom the 514  
money was owed; 515

(2) The debtor has entered into a repayment plan that is 516  
approved by the attorney general and the state agency or political 517  
subdivision to whom the money identified in the finding for 518  
recovery is owed. A repayment plan may include a provision 519  
permitting a state agency or political subdivision to withhold 520  
payment to a debtor for goods, services, or construction provided 521  
to or for the state agency or political subdivision pursuant to a 522  
contract that is entered into with the debtor after the date the 523  
finding for recovery was issued. 524

(3) The attorney general waives a repayment plan described in 525  
division (B)(2) of this section for good cause; 526

(4) The debtor and state agency or political subdivision to 527  
whom the money identified in the finding for recovery is owed have 528  
agreed to a payment plan established through an enforceable 529  
settlement agreement. 530

(5) The state agency or political subdivision desiring to 531  
enter into a contract with a debtor certifies, and the attorney 532  
general concurs, that all of the following are true: 533

(a) Essential services the state agency or political 534  
subdivision is seeking to obtain from the debtor cannot be 535  
provided by any other person besides the debtor; 536

(b) Awarding a contract to the debtor for the essential 537  
services described in division (B)(5)(a) is in the best interest 538  
of the state; 539

(c) Good faith efforts have been made to collect the money 540  
identified in the finding of recovery. 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 <u>the following</u> :	886
(1) The general assembly, or any commission, committee, or	887
other body composed entirely of members <del>thereof</del> <u>of the general</u>	888
<u>assembly</u> ;	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;

(15) The industrial commission.

(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.

(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.

(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.

(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.

**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

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	\$ <del>50</del> <u>65</u>	1256
For office of member of United States		1257
congress or member of general assembly	\$ <del>25</del> <u>40</u>	1258
For county office	\$ <del>25</del> <u>40</u>	1259
For city office	\$ <del>10</del> <u>25</u>	1260
For office of member of <u>the</u> state board		1261
of education	\$ <del>20</del> <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	1274
court of record, and no referee or magistrate serving a court of	1275
record, shall be required to pay the fee required under division	1276
(E)(1) or (2) or (F) of this section.	1277
(4) For any public official who is appointed to a nonelective	1278
office of the state and for any employee who holds a nonelective	1279
position in a public agency of the state, the state agency that is	1280
the primary employer of the state official or employee shall pay	1281
the fee required under division (E)(1) or (F) of this section.	1282
(F) If a statement required to be filed under this section is	1283
not filed by the date on which it is required to be filed, the	1284
appropriate ethics commission shall assess the person required to	1285
file the statement a late filing fee <del>equal to one half of the</del>	1286
<del>applicable filing fee</del> <u>ten dollars</u> for each day the statement is	1287
not filed, except that the total amount of the late filing fee	1288
shall not exceed <del>one</del> <u>two</u> hundred <u>fifty</u> dollars.	1289
(G)(1) The appropriate ethics commission other than the Ohio	1290
ethics commission shall deposit all fees it receives under	1291
divisions (E) and (F) of this section into the general revenue	1292
fund of the state.	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

(3) Act as a liaison between state agencies and organizations; 1326  
1327

(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. 1328  
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(C) The governor shall appoint an executive assistant to manage the office and perform or oversee the performance of the duties of the office. 1333  
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(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: 1336  
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1338  
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(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. 1340  
1341  
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(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. 1344  
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(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. 1353  
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(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 <del>Chapter 5743. of the Revised Code</del> <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 <del>5743.45</del> <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
<b>Sec. 117.44.</b> 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 <del>fifteenth</del> <u>first</u> day of <del>February</del> <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
<del>Civilian conservation;</del>	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 do the 3012  
following: 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~~ the state; 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 the 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

(I) Promote economic growth in the state. 3039

Sec. 122.041. The director of development shall do all of the 3040  
following with regard to the encouraging diversity, growth, and 3041  
equity program created under section 123.152 of the Revised Code: 3042

3043

(A) Conduct outreach, marketing, and recruitment of EDGE 3044  
business enterprises, as defined in that section; 3045

(B) Provide assistance to the department of administrative 3046  
services, as needed, to certify new EDGE business enterprises and 3047  
to train appropriate state agency staff; 3048

(C) Provide business development services to EDGE business 3049  
enterprises in the developmental and transitional stages of the 3050  
program, including financial and bonding assistance and management 3051  
and technical assistance; 3052

(D) Develop a mentor program to bring businesses into a 3053  
working relationship with EDGE business enterprises in a way that 3054  
commercially benefits both entities and serves the purpose of the 3055  
EDGE program; 3056

(E) Not later than December 31, 2003, prepare and submit to 3057  
the governor a detailed report outlining and evaluating the 3058  
progress made in implementing the encouraging diversity, growth, 3059  
and equity program; 3060

(F) Establish processes by which an EDGE business enterprise 3061  
may apply for contract assistance, financial and bonding 3062  
assistance, management and technical assistance, and mentoring 3063  
opportunities. 3064

**Sec. 122.08.** (A) There is hereby created within the 3065  
department of development an office to be known as the office of 3066  
small business. The office shall be under the supervision of a 3067  
manager appointed by the director of development. 3068

- (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 <del>ten</del>	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 hundredmillion 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  
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(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project. 3569  
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(E) An agreement under this section shall include all of the following: 3572  
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(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  
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(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section. 3578  
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(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed. 3581  
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(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  
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(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  
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(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  
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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 4976  
installments to be paid during the year. 4977

Sections 124.13 and 124.19 of the Revised Code do not apply 4978  
to an employee who is paid under this division. 4979

As used in this division, "academic year" means the number of 4980  
days in each school year that the schools are required to be open 4981  
for instruction with pupils in attendance. Upon completing an 4982  
academic year, an employee paid under this division shall be 4983  
deemed to have completed one year of service. An employee paid 4984  
under this division is eligible to receive a pay supplement under 4985  
division (L)(1), (2), or (3) of section 124.181 of the Revised 4986  
Code for which the employee qualifies, but is not eligible to 4987  
receive a pay supplement under division (L)(4) or (5) of that 4988  
section. An employee paid under this division is eligible to 4989  
receive a pay supplement under division (L)(6) of section 124.181 4990  
of the Revised Code for which the employee qualifies, except that 4991  
the supplement is not limited to a maximum of five per cent of the 4992  
employee's regular base salary in a calendar year. 4993

(M) Division (A) of this section does not apply to "exempt 4994  
employees," as defined in section 124.152 of the Revised Code, who 4995  
are paid under that section. 4996

Notwithstanding any other provisions of this chapter, when an 4997  
employee transfers between bargaining units or transfers out of or 4998  
into a bargaining unit, the director shall establish the 4999  
employee's compensation and adjust the maximum leave accrual 5000  
schedule as the director deems equitable. 5001

~~Sec. 124.152. (A) Beginning on the first day of the pay 5002  
period that includes July 1, 2000, each exempt employee shall be 5003  
paid a salary or wage in accordance with the following schedule of 5004  
rates: 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
<p><del>(B) Beginning on the first day of the pay period that</del></p> <p><del>includes July 1, 2001, each exempt employee shall be paid a salary</del></p> <p><del>or wage in accordance with the following schedule of rates:</del></p>									5066
Schedule E-1									5069
Pay Ranges and Step Values									5070

		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		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
<u>1</u>	<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 <del>assistance</del> 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~~ 5123.199 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
<b>Sec. 131.02.</b> (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
<b>Sec. 131.23.</b> 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 <del>him</del> <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 one-time or periodic fee; 6986  
6987

(e) The estimated number and geographic distribution of participating pharmacies and the process for establishing the program's pharmacy network; 6988  
6989  
6990

(f) Financial incentives to be paid to participating pharmacies by the entity; 6991  
6992

(g) The percentage of prescription drugs to be covered by the program by major drug category; 6993  
6994

(h) How the entity proposes to improve medication management for cardholders; 6995  
6996

(i) How cardholders and participating pharmacies will be informed of the ~~discounted~~ reduced price negotiated by the entity; 6997  
6998

(j) How the entity will handle complaints about the program's operation; 6999  
7000

(k) The entity's previous experience in managing similar programs; 7001  
7002

(1) Any additional information requested by the director. 7003

(2) The director shall contract with one or more entities to administer a program or programs on the basis of the proposals submitted, but may require an administrator to modify its conduct of a program in accordance with rules adopted under division (F) of this section. Prior to entering into a contract with an entity, the director shall obtain approval of the contract from the controlling board at a public hearing. 7004  
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The director shall adopt rules specifying the period for which a contract will be in effect and may terminate a contract if an administrator fails to conduct a program in accordance with its proposal or with any modifications required by rule. When a contract period ends or a contract is terminated, the director 7011  
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7013  
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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  
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(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following: 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

<del>discount</del> program;	7165
<del>(H)</del> (I) The name of the program's administrator;	7166
<del>(I)</del> (J) The length of the contract between the director and the program's administrator;	7167 7168
<del>(J)</del> (K) The number of pharmacies participating in the program;	7169
<del>(K)</del> (L) Other than the cost of prescription drugs, any fees paid by cardholders to participate in the program;	7170 7171
<del>(L)</del> (M) Any costs incurred by the state to operate the program;	7172 7173
<del>(M)</del> (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
<b>Sec. 173.14.</b> 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 <del>age sixty or older</del> 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
<del>age sixty or older</del> 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	
2000 (first payment	\$104,855,222.85	7636
credited)		
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
<del>(B)</del> (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
<b>Sec. 307.93.</b> (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 307.987~~, 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 <del>agreement</del> , contract, plan, or procedures may be amended.	8594 8595
<b>Sec. 311.17.</b> For the services specified in this section, the sheriff shall charge the following fees, which the court or <u>its</u> clerk <del>thereof</del> 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, <del>five</del> <u>twenty</u> dollars;	8603 8604
(b) When levy is made on real property, for the first tract, <del>twenty</del> <u>twenty-five</u> dollars, and for each additional tract, <del>five</del> <u>ten</u> dollars;	8605 8606 8607
(c) When levy is made on goods and chattels, including inventory, <del>twenty-five</del> <u>fifty</u> dollars <del>;</del> .	8608 8609
(2) Writ of attachment of property, except for purpose of garnishment, <del>twenty</del> <u>forty</u> dollars;	8610 8611
(3) Writ of attachment for the purpose of garnishment, <del>five</del> <u>ten</u> dollars;	8612 8613
(4) Writ of replevin, <del>twenty</del> <u>forty</u> dollars;	8614
(5) Warrant to arrest, for each person named in the writ, <del>five</del> <u>ten</u> dollars;	8615 8616
(6) Attachment for contempt, for each person named in the writ, <del>three</del> <u>six</u> dollars;	8617 8618
(7) Writ of possession or restitution, <del>twenty</del> <u>sixty</u> dollars;	8619

(8) Subpoena, for each person named in the writ, <del>if in either</del>	8620
a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del>	8621
<del>one dollar</del> ;	8622
(9) Venire, for each person named in the writ, <del>if in either</del>	8623
a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del>	8624
<del>one dollar</del> ;	8625
(10) Summoning each juror, other than on venire, <del>if in either</del>	8626
a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del>	8627
<del>one dollar</del> ;	8628
(11) Writ of partition, <del>fifteen</del> <u>twenty-five</u> dollars;	8629
(12) Order of sale on partition, for the first tract,	8630
<del>twenty-five</del> <u>fifty</u> dollars, and for each additional tract, <del>five</del>	8631
<u>twenty-five</u> dollars;	8632
(13) Other order of sale of real property, for the first	8633
tract, <del>twenty</del> <u>fifty</u> dollars, and for each additional tract, <del>five</del>	8634
<u>twenty-five</u> dollars;	8635
(14) Administering oath to appraisers, <del>one dollar and fifty</del>	8636
<del>cents</del> <u>three dollars</u> each;	8637
(15) Furnishing copies for advertisements, <del>fifty cents</del> <u>one</u>	8638
<u>dollar</u> for each hundred words;	8639
(16) Copy of indictment, for each defendant, <del>two</del> <u>five</u>	8640
dollars;	8641
(17) All summons, writs, orders, or notices, for the first	8642
name, <del>three</del> <u>six</u> dollars, and for each additional name, <del>fifty cents</del>	8643
<u>one dollar</u> .	8644
(B) In addition to the fee for service and return, <del>the</del>	8645
<del>sheriff may charge</del> :	8646
(1) On each summons, writ, order, or notice, a fee of <del>fifty</del>	8647
<del>cents</del> <u>one dollar</u> per mile for the first mile, and <del>twenty</del> <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
<b>Sec. 323.01.</b> 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 (O) 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

~~(C)~~ The medical assistance program established under Chapter 5111. of the Revised Code; 9327  
9328

~~(C)~~~~(D)~~ The Ohio works first program established under Chapter 5107. of the Revised Code; 9329  
9330

~~(D)~~~~(E)~~ The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code. 9331  
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**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  
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(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 division (A) of this section increased by three per cent; 10102  
10103
- (2) In calendar year 2000, the compensation determined under division (D)(1) of this section increased by three per cent; 10104  
10105
- (3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent; 10106  
10107
- (4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, nineteen thousand eight hundred ten dollars; and in townships having a budget of more than ten million dollars, twenty thousand nine hundred dollars; 10108  
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- (5) In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower; 10116  
10117  
10118  
10119
- (6) In calendar year 2004, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(5) of this section for the calendar year 2003 increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower; in townships having a budget of more than six million but not more than ten million dollars, twenty-two thousand eighty-seven dollars; and in townships having a budget of more than ten million dollars, twenty-five thousand five hundred fifty-three dollars; 10120  
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- (7) In calendar years ~~2003~~ 2005 through 2008, the compensation determined under division (D) of this section for the immediately preceding calendar year increased by the lesser of the 10130  
10131  
10132

following: 10133

(a) Three per cent; 10134

(b) The percentage increase, if any, in the consumer price 10135  
index over the twelve-month period that ends on the thirtieth day 10136  
of September of the immediately preceding calendar year, rounded 10137  
to the nearest one-tenth of one per cent; 10138

~~(6)~~(8) In calendar year 2009 and thereafter, the amount 10139  
determined under division (D) of this section for calendar year 10140  
2008. 10141

As used in this division, "consumer price index" has the same 10142  
meaning as in section 325.18 of the Revised Code. 10143

**Sec. 511.12.** The board of township trustees may prepare plans 10144  
and specifications and make contracts for the construction and 10145  
erection of a memorial building, monument, statue, or memorial, 10146  
for the purposes specified and within the amount authorized by 10147  
section 511.08 of the Revised Code. If the total estimated cost of 10148  
the construction and erection exceeds ~~fifteen~~ twenty-five thousand 10149  
dollars, the contract shall be let by competitive bidding. If the 10150  
estimated cost is ~~fifteen~~ twenty-five thousand dollars or less, 10151  
competitive bidding may be required at the board's discretion. In 10152  
making contracts under this section, the board shall be governed 10153  
as follows: 10154

(A) Contracts for construction when competitive bidding is 10155  
required shall be based upon detailed plans, specifications, forms 10156  
of bids, and estimates of cost, adopted by the board. 10157

(B) Contracts shall be made in writing upon concurrence of a 10158  
majority of the members of the board, and shall be signed by at 10159  
least two of ~~such~~ the members and by the contractor. If 10160  
competitive bidding is required, no contract shall be made or 10161  
signed until an advertisement has been placed in two newspapers, 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.

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.

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.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

~~(2)~~(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

~~(3)~~(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

~~(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

estate investment trusts, investments in regulated investment 10346  
companies, and appreciation on deferred compensation. "Intangible 10347  
income" does not include prizes, awards, or other income 10348  
associated with any lottery winnings or other similar games of 10349  
chance. 10350

(5)(6) "S corporation" means a corporation that has made an 10351  
election under subchapter S of Chapter 1 of Subtitle A of the 10352  
Internal Revenue Code for its taxable year. 10353

(7) For taxable years beginning on or after January 1, 2004, 10354  
"net profit" for a taxpayer other than an individual means 10355  
adjusted federal taxable income and "net profit" for a taxpayer 10356  
who is an individual means the individual's profit required to be 10357  
reported on schedule C, schedule E, or schedule F. 10358

(8) "Taxpayer" means a person subject to a tax on income 10359  
levied by a municipal corporation. "Taxpayer" does not include any 10360  
person that is a disregarded entity or a qualifying subchapter S 10361  
subsidiary for federal income tax purposes, but "taxpayer" 10362  
includes any other person who owns the disregarded entity or 10363  
qualifying subchapter S subsidiary. 10364

(9) "Taxable year" means the corresponding tax reporting 10365  
period as prescribed for the taxpayer under the Internal Revenue 10366  
Code. 10367

(10) "Tax administrator" means the individual charged with 10368  
direct responsibility for administration of a tax on income levied 10369  
by a municipal corporation and includes: 10370

(a) The central collection agency and the regional income tax 10371  
agency and their successors in interest, and other entities 10372  
organized to perform functions similar to those performed by the 10373  
central collection agency and the regional income tax agency; 10374

(b) A municipal corporation acting as the agent of another 10375  
municipal corporation; and 10376

(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  
10388

(B) No municipal corporation ~~with respect to that income that it may tax~~ shall tax ~~such~~ income at other than a uniform rate. 10389  
10390

(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: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?" 10391  
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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~~ ~~(F)(9)~~ (E) or (F) of this section, no municipal corporation shall 10408  
exempt from a tax on income, compensation for personal services of 10409  
individuals over eighteen years of age or the net profit from a 10410  
business or profession. 10411  
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
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<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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	10510
(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  
10709

(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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(c) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of 10744  
10745

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

gateway. 10871

(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. 10872  
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10878

(H)(1) The tax commissioner shall adopt rules establishing: 10879

(a) The format of documents to be used by taxpayers to file returns and make payments through the Ohio business gateway; and 10880  
10881

(b) The information taxpayers must submit when filing municipal income tax returns through the Ohio business gateway. 10882  
10883

(2) The commissioner shall consult with the Ohio business gateway steering committee before adopting the rules described in division (H)(1) of this section. 10884  
10885  
10886

(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. 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~~ The 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~~ amendment, but 10894  
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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<sup>7</sup> 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 stock in intensive and nonintensive production areas. 11673  
11674

The fees collected under division (F) of this section shall be deposited into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Moneys so credited to the fund shall be used to pay the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors. 11675  
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**Sec. 927.69.** To effect the purpose of sections 927.51 to 927.74, ~~inclusive,~~ of the Revised Code, the director of agriculture, or ~~his~~ the director's authorized representative, may: 11682  
11683  
11684

(A) Make reasonable inspection of any premises in this state and any property therein or thereon; 11685  
11686

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article ~~which that~~ is subject to sections 927.51 to 927.72, ~~inclusive,~~ of the Revised Code; 11687  
11688  
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11691

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested. 11692  
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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, 11916  
1309.516, and 1309.519 of the Revised Code; and 11917

(d) Security agreements covering personal and real property 11918  
in section 1309.604 of the Revised Code. 11919

(12) An assignment of a claim arising in tort, other than a 11920  
commercial tort claim, but sections 1309.315 and 1309.322 of the 11921  
Revised Code apply with respect to proceeds and priorities in 11922  
proceeds; 11923

(13) An assignment of a deposit account in a consumer 11924  
transaction, but sections 1309.315 and 1309.322 of the Revised 11925  
Code apply with respect to proceeds and priorities in proceeds; or 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 11928  
a lottery prize award for consideration is subject to the 11929  
prohibition of division ~~(A)(3)(C)~~ of section 3770.07 of the 11930  
Revised Code. The sale, assignment, or other redirection of a 11931  
lottery prize award for consideration is subject to the provisions 11932  
of division ~~(A)(4)(D)~~ of section 3770.07 and sections 3770.10 to 11933  
3770.14 of the Revised Code. 11934

**Sec. 1317.07.** No retail installment contract authorized by 11935  
section 1317.03 of the Revised Code that is executed in connection 11936  
with any retail installment sale shall evidence any indebtedness 11937  
in excess of the time balance fixed in the written instrument in 11938  
compliance with section 1317.04 of the Revised Code, but it may 11939  
evidence in addition any agreements of the parties for the payment 11940  
of delinquent charges, as provided for in section 1317.06 of the 11941  
Revised Code, taxes, and any lawful fee actually paid out, or to 11942  
be paid out, by the retail seller to any public officer for 11943  
filing, recording, or releasing any instrument securing the 11944  
payment of the obligation owed on any retail installment contract. 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.

(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 the 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

(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.

(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:

(a) Be required within fifteen days to place such funds into

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 12709  
corps of engineers, the department of natural resources, and the 12710  
Muskingum conservancy district established under Chapter 6101. of 12711  
the Revised Code concerning potential hazards to flood control or 12712  
navigation, erosion problems, debris accumulation, and 12713  
deterioration of locks or dams. 12714

**Sec. 1503.05.** (A) The chief of the division of forestry may 12715  
sell timber and other forest products from the state forest and 12716  
state forest nurseries whenever the chief considers such a sale 12717  
desirable and, with the approval of the attorney general and the 12718  
director of natural resources, may sell portions of the state 12719  
forest lands when such a sale is advantageous to the state. 12720

(B) Except as otherwise provided in this section, a timber 12721  
sale agreement shall not be executed unless the person or 12722  
governmental entity bidding on the sale executes and files a 12723  
surety bond conditioned on completion of the timber sale in 12724  
accordance with the terms of the agreement in an amount equal to 12725  
twenty-five per cent of the highest value cutting section. All 12726  
bonds shall be given in a form prescribed by the chief and shall 12727  
run to the state as obligee. 12728

The chief shall not approve any bond until it is personally 12729  
signed and acknowledged by both principal and surety, or as to 12730  
either by the attorney in fact thereof, with a certified copy of 12731  
the power of attorney attached. The chief shall not approve the 12732  
bond unless there is attached a certificate of the superintendent 12733  
of insurance that the company is authorized to transact a fidelity 12734  
and surety business in this state. 12735

In lieu of a bond, the bidder may deposit any of the 12736  
following: 12737

(1) Cash in an amount equal to the amount of the bond; 12738

(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
<b>Sec. 1521.06.</b> (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 <del>which</del> <u>that</u> is or will be less than ten feet in height and <del>which</del> <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, <del>which</del> <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, <del>which</del> <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~~ that belongs to a class 13267  
exempted by the chief; 13268

(5) The repair, maintenance, improvement, alteration, or 13269  
removal of a dam, dike, or levee ~~which~~ that is subject to section 13270  
1521.062 of the Revised Code, unless the construction constitutes 13271  
an enlargement of the structure as determined by the chief; 13272

(6) A dam or impoundment constructed under Chapter 1513. of 13273  
the Revised Code. 13274

(B) Before a construction permit may be issued, three copies 13275  
of the plans and specifications, including a detailed cost 13276  
estimate, for the proposed construction, prepared by a registered 13277  
professional engineer, together with the filing fee specified by 13278  
this section and the bond or other security required by section 13279  
1521.061 of the Revised Code, shall be filed with the chief. The 13280  
detailed estimate of the cost shall include all costs associated 13281  
with the construction of the dam, dike, or levee, including 13282  
supervision and inspection of the construction by a registered 13283  
professional engineer. ~~Except for a political subdivision, the~~ The 13284  
filing fee shall be based on the detailed cost estimate for the 13285  
proposed construction as filed with and approved by the chief, and 13286  
shall be determined by the following schedule unless otherwise 13287  
provided by rules adopted under this section: 13288

(1) For the first one hundred thousand dollars of estimated 13289  
cost, a fee of ~~two~~ four per cent; 13290

(2) For the next four hundred thousand dollars of estimated 13291  
cost, a fee of ~~one and one-half~~ three per cent; 13292

(3) For the next five hundred thousand dollars of estimated 13293  
cost, a fee of ~~one~~ two per cent; 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  
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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 <del>as set forth</del> 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, <del>two</del> <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 macrochirus*); 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
<del>3701.88</del> <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 15226  
if life-sustaining treatment is not administered. 15227

(BB) "Tort action" means a civil action for damages for 15228  
injury, death, or loss to person or property, other than a civil 15229  
action for damages for breach of a contract or another agreement 15230  
between persons. 15231

**Sec. 2151.352.** A Except as otherwise provided in this 15232  
section, a child, ~~or~~ the child's parents, or custodian, or any 15233  
other person in loco parentis of ~~such the~~ child is entitled to 15234  
representation by legal counsel at all stages of the proceedings 15235  
under this chapter or Chapter 2152. of the Revised Code ~~and if,~~ 15236  
If, as an indigent person, any such person a party is unable to 15237  
employ counsel, the party is entitled to have counsel provided for 15238  
the person pursuant to Chapter 120. of the Revised Code. If a 15239  
party appears without counsel, the court shall ascertain whether 15240  
the party knows of the party's right to counsel and of the party's 15241  
right to be provided with counsel if the party is an indigent 15242  
person. The court may continue the case to enable a party to 15243  
obtain counsel or to be represented by the county public defender 15244  
or the joint county public defender and shall provide counsel upon 15245  
request pursuant to Chapter 120. of the Revised Code. Counsel must 15246  
be provided for a child not represented by the child's parent, 15247  
guardian, or custodian. If the interests of two or more ~~such~~ 15248  
parties conflict, separate counsel shall be provided for each of 15249  
them. 15250

This section does not confer the right to court-appointed 15251  
counsel in civil actions arising under division (A)(2), (D), or 15252  
(F) of section 2151.23 or division (C) of section 3111.13 of the 15253  
Revised Code. 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 15409 15410
(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 15413 15414 15415
(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;	15416 15417
(i) A requirement that the child serve monitored time;	15418
(j) A period of house arrest with or without electronic monitoring;	15419 15420
(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 15422 15423 15424
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 15426 15427 15428 15429 15430 15431 15432 15433 15434 15435 15436 15437

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.

(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.

(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 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 <del>5115.07</del> <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  
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(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 16149  
applies: 16150

(i) The entity directly or indirectly owns, controls, or 16151  
holds with power to vote, twenty per cent or more of the 16152  
outstanding voting securities of the person who claims an 16153  
exemption, unless the entity holds the securities in a fiduciary 16154  
or agency capacity without sole discretionary power to vote the 16155  
securities or holds the securities solely to secure to debt and 16156  
the entity has not in fact exercised the power to vote. 16157

(ii) The entity is a corporation, twenty per cent or more of 16158  
whose outstanding voting securities are directly or indirectly 16159  
owned, controlled, or held with power to vote, by the person who 16160  
claims an exemption or by an entity to which division (B)(2)(d)(i) 16161  
of this section applies. 16162

(iii) A person whose business is operated under a lease or 16163  
operating agreement by the person who claims an exemption, or a 16164  
person substantially all of whose business is operated under an 16165  
operating agreement with the person who claims an exemption. 16166

(iv) The entity operates the business or all or substantially 16167  
all of the property of the person who claims an exemption under a 16168  
lease or operating agreement. 16169

(e) An insider, as otherwise defined in this section, of a 16170  
person or entity to which division (B)(2)(d)(i), (ii), (iii), or 16171  
(iv) of this section applies, as if the person or entity were a 16172  
person who claims an exemption; 16173

(f) A managing agent of the person who claims an exemption. 16174

(3) "Participant account" has the same meaning as in section 16175  
148.01 of the Revised Code. 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.

16301  
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16304

I dispute the claim for the following reasons:

16305

.....

16306

(Optional)

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.....

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.....

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.....

16310

(Name of Defendant)

16311

.....

16312

(Signature)

16313

.....

16314

(Date)

16315

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



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



(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 17226  
on, sponsor, or prepare for the operation of bingo or a game of 17227  
chance. 17228

(U) "Bingo game operator" means any person, except security 17229  
personnel, who performs work or labor at the site of bingo, 17230  
including, but not limited to, collecting money from participants, 17231  
handing out bingo cards or sheets or objects to cover spaces on 17232  
bingo cards or sheets, selecting from a receptacle the objects 17233  
that contain the combination of letters and numbers that appear on 17234  
bingo cards or sheets, calling out the combinations of letters and 17235  
numbers, distributing prizes, selling or redeeming instant bingo 17236  
tickets or cards, supervising the operation of a punch board, 17237  
selling raffle tickets, selecting raffle tickets from a receptacle 17238  
and announcing the winning numbers in a raffle, and preparing, 17239  
selling, and serving food or beverages. 17240

(V) "Participant" means any person who plays bingo. 17241

(W) "Bingo session" means a period that includes both of the 17242  
following: 17243

(1) Not to exceed five continuous hours for the conduct of 17244  
one or more games described in division (S)(1) of this section, 17245  
instant bingo, and seal cards; 17246

(2) A period for the conduct of instant bingo and seal cards 17247  
for not more than two hours before and not more than two hours 17248  
after the period described in division (W)(1) of this section. 17249

(X) "Gross receipts" means all money or assets, including 17250  
admission fees, that a person receives from bingo without the 17251  
deduction of any amounts for prizes paid out or for the expenses 17252  
of conducting bingo. "Gross receipts" does not include any money 17253  
directly taken in from the sale of food or beverages by a 17254  
charitable organization conducting bingo, or by a bona fide 17255  
auxiliary unit or society of a charitable organization conducting 17256

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, symbols, or characters in winning or losing combinations. 17440  
17441
- (5) It does not simulate or display rolling or spinning reels. 17442  
17443
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator. 17444  
17445  
17446  
17447
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses. 17448  
17449
- (8) It is not part of an electronic network and is not interactive. 17450  
17451
- (TT)(1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following: 17452  
17453  
17454  
17455
- (a) It provides a means for a participant to input numbers and letters announced by a bingo caller. 17456  
17457
- (b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device. 17458  
17459  
17460
- (c) It identifies a winning bingo pattern. 17461
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play. 17462  
17463  
17464
- (UU) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number. 17465  
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
<b>Sec. 2915.02.</b> (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
<del>or</del> , 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 17683  
previous application refused, whether it previously has had a 17684  
license revoked or suspended, and the reason stated by the 17685  
attorney general for the refusal, revocation, or suspension; 17686

(f) A statement of the charitable purposes for which the net 17687  
profit derived from bingo, other than instant bingo, will be used, 17688  
and a statement of how the net profit derived from instant bingo 17689  
will be distributed in accordance with section 2915.101 of the 17690  
Revised Code; 17691

(g) Other necessary and reasonable information that the 17692  
attorney general may require by rule adopted pursuant to section 17693  
111.15 of the Revised Code; 17694

(h) If the applicant is a charitable trust as defined in 17695  
section 109.23 of the Revised Code, a statement as to whether it 17696  
has registered with the attorney general pursuant to section 17697  
109.26 of the Revised Code or filed annual reports pursuant to 17698  
section 109.31 of the Revised Code, and, if it is not required to 17699  
do either, the exemption in section 109.26 or 109.31 of the 17700  
Revised Code that applies to it; 17701

(i) If the applicant is a charitable organization as defined 17702  
in section 1716.01 of the Revised Code, a statement as to whether 17703  
it has filed with the attorney general a registration statement 17704  
pursuant to section 1716.02 of the Revised Code and a financial 17705  
report pursuant to section 1716.04 of the Revised Code, and, if it 17706  
is not required to do both, the exemption in section 1716.03 of 17707  
the Revised Code that applies to it; 17708

(j) In the case of an applicant seeking to qualify as a youth 17709  
athletic park organization, a statement issued by a board or body 17710  
vested with authority under Chapter 755. of the Revised Code for 17711  
the supervision and maintenance of recreation facilities in the 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 17777  
of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 17778  
2915.11 of the Revised Code, or violates or has violated any 17779  
provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised 17780  
Code or any rule adopted by the attorney general pursuant to this 17781  
section; 17782

(b) Makes or has made an incorrect or false statement that is 17783  
material to the granting of the license in an application filed 17784  
pursuant to division (A) of this section; 17785

(c) Submits or has submitted any incorrect or false 17786  
information relating to an application if the information is 17787  
material to the granting of the license; 17788

(d) Maintains or has maintained any incorrect or false 17789  
information that is material to the granting of the license in the 17790  
records required to be kept pursuant to divisions (A) and (C) of 17791  
section 2915.10 of the Revised Code, if applicable; 17792

(e) The attorney general has good cause to believe that the 17793  
organization will not conduct bingo, instant bingo at a bingo 17794  
session, or instant bingo other than at a bingo session in 17795  
accordance with sections 2915.07 to 2915.13 of the Revised Code or 17796  
with any rule adopted by the attorney general pursuant to this 17797  
section. 17798

(3) For the purposes of division (B) of this section, any 17799  
action of an officer, trustee, agent, representative, or bingo 17800  
game operator of an organization is an action of the organization. 17801

(C) The attorney general may grant licenses to charitable 17802  
organizations that are branches, lodges, or chapters of national 17803  
charitable organizations. 17804

(D) The attorney general shall send notice in writing to the 17805  
prosecuting attorney and sheriff of the county in which the 17806

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 17965  
serve the food or beverages; 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 17996  
bingo sessions on a day of the week or at a time other than the 17997  
day or time specified on its license. If the amended license is 17998  
granted, the organization may conduct bingo sessions at the 17999  
premises, on the day of the week, and at the time specified on its 18000  
amended license. 18001

(7) Permit any person whom the charitable organization knows, 18002  
or should have known, is under the age of eighteen to work as a 18003  
bingo game operator; 18004

(8) Permit any person whom the charitable organization knows, 18005  
or should have known, has been convicted of a felony or gambling 18006  
offense in any jurisdiction to be a bingo game operator; 18007

(9) Permit the lessor of the premises on which the bingo 18008  
session is conducted, if the lessor is not a charitable 18009  
organization, to provide the charitable organization with bingo 18010  
game operators, security personnel, concessions, bingo supplies, 18011  
or any other type of service or equipment; 18012

(10) Purchase or lease bingo supplies from any person except 18013  
a distributor issued a license under section 2915.081 of the 18014  
Revised Code; 18015

(11)(a) Use or permit the use of electronic bingo aids except 18016  
under the following circumstances: 18017

(i) For any single participant, not more than ninety bingo 18018  
faces can be played using an electronic bingo aid or aids. 18019

(ii) The charitable organization shall provide a participant 18020  
using an electronic bingo aid with corresponding paper bingo cards 18021  
or sheets. 18022

(iii) The total price of bingo faces played with an 18023  
electronic bingo aid shall be equal to the total price of the same 18024  
number of bingo faces played with a paper bingo card or sheet sold 18025

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 section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session. 18058  
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(3) Nothing in division ~~does not prohibit~~ (D) of this section prohibits an employee of a fraternal organization or veteran's organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo. 18065  
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(E) Notwithstanding division (B)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each 18070  
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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  
18495  
18496

**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 18548  
enters into a written contract pursuant to division (B) of this 18549  
section shall violate any provision of Chapter 2915. of the 18550  
Revised Code, or permit, aid, or abet any other person in 18551  
violating any provision of Chapter 2915. of the Revised Code. 18552

(D) A veteran's organization or fraternal organization shall 18553  
give all required proceeds earned from the conduct of instant 18554  
bingo to the ~~charitable~~ organization with which the veteran's 18555  
organization or fraternal organization has entered into a written 18556  
contract. 18557

(E) Whoever violates this section is guilty of illegal 18558  
instant bingo conduct. Except as otherwise provided in this 18559  
division, illegal instant bingo conduct is a misdemeanor of the 18560  
first degree. If the offender previously has been convicted of a 18561  
violation of this section, illegal instant bingo conduct is a 18562  
felony of the fifth degree. 18563

**Sec. 2917.41.** (A) No person shall evade the payment of the 18564  
known fares of a public transportation system. 18565

(B) No person shall alter any transfer, pass, ticket, or 18566  
token of a public transportation system with the purpose of 18567  
evading the payment of fares or of defrauding the system. 18568

(C) No person shall do any of the following while in any 18569  
facility or on any vehicle of a public transportation system: 18570

(1) Play sound equipment without the proper use of a private 18571  
earphone; 18572

(2) Smoke, eat, or drink in any area where the activity is 18573  
clearly marked as being prohibited; 18574

(3) Expectorate upon a person, facility, or vehicle. 18575

(D) No person shall write, deface, draw, or otherwise mark on 18576

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 19079  
of in accordance with division (D)(4) of section 2933.41 of the 19080  
Revised Code. 19081
- (8) In the case of property not described in divisions (B)(1) 19082  
to (7) of this section and of property described in those 19083  
divisions but not disposed of pursuant to them, the property shall 19084  
be sold in accordance with division (B)(8) of this section or, in 19085  
the case of forfeited moneys, disposed of in accordance with 19086  
division (B)(8) of this section. If the property is to be sold, 19087  
the prosecuting attorney shall cause a notice of the proposed sale 19088  
of the property to be given in accordance with law, and the 19089  
property shall be sold, without appraisal, at a public auction to 19090  
the highest bidder for cash. The proceeds of a sale and forfeited 19091  
moneys shall be applied in the following order: 19092
- (a) First, to the payment of the costs incurred in connection 19093  
with the seizure of, storage of, maintenance of, and provision of 19094  
security for the property, the forfeiture proceeding or civil 19095  
action, and, if any, the sale; 19096
- (b) Second, the remaining proceeds or forfeited moneys after 19097  
compliance with division (B)(8)(a) of this section, to the payment 19098  
of the value of any legal right, title, or interest in the 19099  
property that is possessed by a person who, pursuant to division 19100  
(F) of section 2925.42 of the Revised Code or division (E) of 19101  
section 2925.43 of the Revised Code, established the validity of 19102  
and consequently preserved that legal right, title, or interest, 19103  
including, but not limited to, any mortgage, perfected or other 19104  
security interest, or other lien in the property. The value of 19105  
these rights, titles, or interests shall be paid according to 19106  
their record or other order of priority. 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 19266  
period, the law enforcement agency that seized the motor vehicle 19267  
may petition the court of common pleas of the county that has 19268  
jurisdiction over the underlying criminal case or administrative 19269  
proceeding involved in the forfeiture for an extension of the 19270  
seventy-two-hour period if the motor vehicle or its contents are 19271  
needed as evidence or if additional time is needed for the 19272  
inspection, investigation, or gathering of evidence. Upon the 19273  
filing of such a petition, the court immediately shall schedule a 19274  
hearing to be held at a time as soon as possible after the filing, 19275  
but in no event at a time later than the end of the next business 19276  
day subsequent to the day on which the petition was filed, and 19277  
upon scheduling the hearing, immediately shall notify the owner of 19278  
the vehicle, at the address at which notification of the seizure 19279  
was provided under division (A) of this section, of the date, 19280  
time, and place of the hearing. If the court, at the hearing, 19281  
determines that the vehicle or its contents, or both, are needed 19282  
as evidence or that additional time is needed for the inspection, 19283  
investigation, or gathering of evidence, the court may grant the 19284  
petition and issue an order authorizing the retention of the 19285  
vehicle or its contents, or both, for an extended period as 19286  
specified by the court in its order. An order extending a period 19287  
of retention issued under this division may be renewed. 19288

If no petition for the extension of the initial 19289  
seventy-two-hour period has been filed, prior to the expiration of 19290  
that period, under this division, if the vehicle was not in the 19291  
custody and control of the owner at the time of its seizure, and 19292  
if, at the end of that seventy-two-hour period, the owner of the 19293  
vehicle has not been charged with an offense or administrative 19294  
violation that includes the use of the vehicle as an element and 19295  
has not been charged with any other offense or administrative 19296  
violation in the actual commission of which the motor vehicle was 19297

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 court costs, or enters an order on its journal stating that it has determined that the juvenile is indigent, that no other court costs are to be taxed in the case, and that the payment of the ~~eleven~~ fifteen dollars court costs is waived.

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, the court shall add to the amount of the bail the ~~eleven~~ fifteen dollars required to be paid by division (A)(1) of this section. The ~~eleven~~ fifteen dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the ~~eleven~~ fifteen dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, who shall deposit it into the general revenue fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the ~~eleven~~ fifteen dollars to the person.

(C) No person shall be placed or held in a detention facility for failing to pay the additional ~~eleven~~ fifteen dollars court costs or bail that are required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" and "bail" have the same meanings as in section 2743.70 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

**Sec. 3111.04.** (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's

mother or her personal representative, a man alleged or alleging 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 of social security; 20410  
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(e) Nonrecurring or unsustainable income or cash flow items; 20412

(f) Adoption assistance and foster care maintenance payments made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended. 20413  
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(8) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to produce income or cash flow for a period of more than three years. 20416  
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(9)(a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of business equipment as shown on the books of a business entity. 20426  
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(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C)(9)(a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business. 20430  
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(10) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation. 20437  
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(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 furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section 3301.0710 of the Revised Code, the department shall make the tests available on its website for reproduction by districts. 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 20681  
students in the third grade who have not attained the score 20682  
designated for that test under division (A)(2)(b) of section 20683  
3301.0710 of the Revised Code and once each summer to students 20684  
receiving summer remediation services under section 3313.608 of 20685  
the Revised Code. 20686

(2) Administer the tests prescribed under division (A)(1)(b) 20687  
of section 3301.0710 of the Revised Code at least once annually to 20688  
all students in the fourth grade. 20689

(3) Administer the tests prescribed under division (A)(1)(c) 20690  
of section 3301.0710 of the Revised Code at least once annually to 20691  
all students in the fifth grade. 20692

(4) Administer the tests prescribed under division (A)(1)(d) 20693  
of section 3301.0710 of the Revised Code at least once annually to 20694  
all students in the seventh grade. 20695

(5) Administer the tests prescribed under division (A)(1)(e) 20696  
of section 3301.0710 of the Revised Code at least once annually to 20697  
all students in the eighth grade. 20698

(6) Except as provided in division (B)(7) of this ~~sections~~ 20699  
section, administer any test prescribed under division (B) of 20700  
section 3301.0710 of the Revised Code as follows: 20701

(a) At least once annually to all tenth grade students and at 20702  
least twice annually to all students in eleventh or twelfth grade 20703  
who have not yet attained the score on that test designated under 20704  
that division; 20705

(b) To any person who has successfully completed the 20706  
curriculum in any high school or the individualized education 20707  
program developed for the person by any high school pursuant to 20708  
section 3323.08 of the Revised Code but has not received a high 20709  
school diploma and who requests to take such test, at any time 20710  
such test is administered in the district. 20711

(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  
administer any test prescribed under division (B) of section  
3301.0710 of the Revised Code at least twice annually to any  
student enrolled in the joint vocational school district who has  
not yet attained the score on that test designated under that  
division. A board of a joint vocational school district may also  
administer such a test to any student described in division  
(B)(6)(b) of this section.

(8) If the district has been declared to be under an academic  
watch or in a state of academic emergency pursuant to section  
3302.03 of the Revised Code, administer each test prescribed by  
division (F) of section 3301.0710 of the Revised Code in September  
to all ninth grade students, beginning in the school year that  
starts July 1, 2004.

(C)(1)(a) Any student receiving special education services  
under Chapter 3323. of the Revised Code may be excused from taking  
any particular test required to be administered under this section  
if the individualized education program developed for the student  
pursuant to section 3323.08 of the Revised Code excuses the  
student from taking that test and instead specifies an alternate  
assessment method approved by the department of education as  
conforming to requirements of federal law for receipt of federal  
funds for disadvantaged pupils. To the extent possible, the  
individualized education program shall not excuse the student from  
taking a test unless no reasonable accommodation can be made to  
enable the student to take the test.

(b) Any alternate assessment approved by the department for a  
student under this division shall produce measurable results  
comparable to those produced by the tests which the alternate  
assessments are replacing in order to allow for the student's

assessment results to be included in the data compiled for a 20744  
school district under section 3302.03 of the Revised Code. 20745

(c) Any student enrolled in a chartered nonpublic school who 20746  
has been identified, based on an evaluation conducted in 20747  
accordance with section 3323.03 of the Revised Code or section 504 20748  
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 20749  
794, as amended, as a child with a disability shall be excused 20750  
from taking any particular test required to be administered under 20751  
this section if a plan developed for the student pursuant to rules 20752  
adopted by the state board excuses the student from taking that 20753  
test. In the case of any student so excused from taking a test, 20754  
the chartered nonpublic school shall not prohibit the student from 20755  
taking the test. 20756

(2) A district board may, for medical reasons or other good 20757  
cause, excuse a student from taking a test administered under this 20758  
section on the date scheduled, but any such test shall be 20759  
administered to such excused student not later than nine days 20760  
following the scheduled date. The board shall annually report the 20761  
number of students who have not taken one or more of the tests 20762  
required by this section to the state board of education not later 20763  
than the thirtieth day of June. 20764

(3) As used in this division, "English-limited student" means 20765  
a student whose primary language is not English, who has been 20766  
enrolled in United States schools for less than three full school 20767  
years, and who within the school year has been identified, in 20768  
accordance with criteria provided by the department of education, 20769  
as lacking adequate proficiency in English for a test under this 20770  
section to produce valid results with respect to that student's 20771  
academic progress. 20772

A school district board or governing authority of a nonpublic 20773  
school may grant a temporary, one-year exemption from any test 20774  
administered under this section to an English-limited student. Not 20775

more than three temporary one-year exemptions may be granted to 20776  
any student. During any school year in which a student is excused 20777  
from taking one or more tests administered under this section, the 20778  
school district shall assess that student's progress in learning 20779  
English, in accordance with procedures approved by the department. 20780

No district board or governing authority of a chartered 20781  
nonpublic school shall prohibit an English-limited student from 20782  
taking a test under this section. 20783

(D) This division does not apply to any student receiving 20784  
services pursuant to an individualized education program developed 20785  
for the student pursuant to section 3323.08 of the Revised Code. 20786

(1) In the school year next succeeding the school year in 20787  
which the tests prescribed by division (A)(1) of section 3301.0710 20788  
of the Revised Code or former division (A)(1), (A)(2), or (B) of 20789  
section 3301.0710 of the Revised Code as it existed prior to the 20790  
effective date of this amendment September 11, 2001, are 20791  
administered to any student, the board of education of any school 20792  
district in which the student is enrolled in that year shall 20793  
provide to the student intervention services commensurate with the 20794  
student's test performance, including any intensive intervention 20795  
required under section 3313.608 of the Revised Code, in any skill 20796  
in which the student failed to demonstrate at least a score at the 20797  
proficient level on a proficiency test or a score in the basic 20798  
range on an achievement test. ~~This division does not apply to any 20799  
student receiving services pursuant to an individualized education 20800  
program developed for the student pursuant to section 3323.08 of 20801  
the Revised Code. 20802~~

(2) Following any administration of the tests prescribed by 20803  
division (F) of section 3301.0710 of the Revised Code to ninth 20804  
grade students, each school district that has been declared to be 20805  
in a state of academic emergency pursuant to section 3302.03 of 20806  
the Revised Code shall determine for each high school in the 20807

district whether the school shall be required to provide 20808  
intervention services to any students who took the tests. In 20809  
determining which high schools shall provide intervention services 20810  
based on the resources available, the district shall consider each 20811  
school's graduation rate and scores on the practice tests. If any 20812  
achievement tests in reading and math are adopted by the state 20813  
board of education for administration in the eighth grade, the 20814  
district also shall consider the scores received by ninth grade 20815  
students on those tests in the eighth grade in determining which 20816  
high schools shall provide intervention services. 20817

Each high school selected to provide intervention services 20818  
under this division shall provide intervention services to any 20819  
student whose test results indicate that the student is failing to 20820  
make satisfactory progress toward being able to attain scores at 20821  
the proficient level on the Ohio Graduation Tests. Intervention 20822  
services shall be provided in any skill in which a student 20823  
demonstrates unsatisfactory progress and shall be commensurate 20824  
with the student's test performance. Schools shall provide the 20825  
intervention services prior to the end of the school year, during 20826  
the summer following the ninth grade, in the next succeeding 20827  
school year, or at any combination of those times. 20828

(E) Except as provided in section 3313.608 of the Revised 20829  
Code and division (M) of this section, no school district board of 20830  
education shall utilize any student's failure to attain a 20831  
specified score on any test administered under this section as a 20832  
factor in any decision to deny the student promotion to a higher 20833  
grade level. However, a district board may choose not to promote 20834  
to the next grade level any student who does not take any test 20835  
administered under this section or make up such test as provided 20836  
by division (C)(2) of this section and who is not exempted from 20837  
the requirement to take the test under division (C)(1) or (3) of 20838  
this section. 20839

(F) No person shall be charged a fee for taking any test administered under this section. 20840  
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(G) Not later than sixty days after any administration of any test prescribed by section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test. For any tests administered under this section by a joint vocational school district, the department shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district. 20842  
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(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section. 20852  
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(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under this section and shall adopt rules to ensure the protection of student confidentiality at all times. 20859  
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(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division. 20863  
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(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to 20867  
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divisions (A) to (C) of section 3311.52 of the Revised Code may 20871  
enter into an agreement with the board of education of the 20872  
cooperative education school district for administering any test 20873  
prescribed under this section to students of the city, exempted 20874  
village, or local school district who are attending school in the 20875  
cooperative education school district. 20876

(2) In accordance with rules that the state board of 20877  
education shall adopt, the board of education of any city, 20878  
exempted village, or local school district with territory in a 20879  
cooperative education school district established pursuant to 20880  
section 3311.521 of the Revised Code shall enter into an agreement 20881  
with the cooperative district that provides for the administration 20882  
of any test prescribed under this section to both of the 20883  
following: 20884

(a) Students who are attending school in the cooperative 20885  
district and who, if the cooperative district were not 20886  
established, would be entitled to attend school in the city, 20887  
local, or exempted village school district pursuant to section 20888  
3313.64 or 3313.65 of the Revised Code; 20889

(b) Persons described in division (B)(6)(b) of this section. 20890

Any testing of students pursuant to such an agreement shall 20891  
be in lieu of any testing of such students or persons pursuant to 20892  
this section. 20893

(K)(1) Any chartered nonpublic school may participate in the 20894  
testing program by administering any of the tests prescribed by 20895  
section 3301.0710 of the Revised Code if the chief administrator 20896  
of the school specifies which tests the school wishes to 20897  
administer. Such specification shall be made in writing to the 20898  
superintendent of public instruction prior to the first day of 20899  
August of any school year in which tests are administered and 20900  
shall include a pledge that the nonpublic school will administer 20901

the specified tests in the same manner as public schools are 20902  
required to do under this section and rules adopted by the 20903  
department. 20904

(2) The department of education shall furnish the tests 20905  
prescribed by section 3301.0710 of the Revised Code to any 20906  
chartered nonpublic school electing to participate under this 20907  
division. 20908

(L)(1) The superintendent of the state school for the blind 20909  
and the superintendent of the state school for the deaf shall 20910  
administer the tests described by section 3301.0710 of the Revised 20911  
Code. Each superintendent shall administer the tests in the same 20912  
manner as district boards are required to do under this section 20913  
and rules adopted by the department of education and in conformity 20914  
with division (C)(1)(a) of this section. 20915

(2) The department of education shall furnish the tests 20916  
described by section 3301.0710 of the Revised Code to each 20917  
superintendent. 20918

(M) Notwithstanding division (E) of this section, a school 20919  
district may use a student's failure to attain a score in at least 20920  
the basic range on any of the tests described by division 20921  
(A)(1)(b), (c), (d), or (e) of section 3301.0710 of the Revised 20922  
Code as a factor in retaining that student in the current grade 20923  
level. 20924

(N)(1) All tests required by section 3301.0710 of the Revised 20925  
Code shall become public records pursuant to section 149.43 of the 20926  
Revised Code on the first day of July following the school year 20927  
that the test was administered. 20928

(2) The department may field test proposed test questions 20929  
with samples of students to determine the validity, reliability, 20930  
or appropriateness of test questions for possible inclusion in a 20931  
future year's test. 20932

Field test questions shall not be considered in computing 20933  
test scores for individual students. Field test questions may be 20934  
included as part of the administration of any test required by 20935  
section 3301.0710 of the Revised Code. 20936

(3) Any field test question administered under division 20937  
(N)(2) of this section shall not be a public record. Such field 20938  
test questions shall be redacted from any tests which are released 20939  
as a public record pursuant to division (N)(1) of this section. 20940

**Sec. 3301.0714.** (A) The state board of education shall adopt 20941  
rules for a statewide education management information system. The 20942  
rules shall require the state board to establish guidelines for 20943  
the establishment and maintenance of the system in accordance with 20944  
this section and the rules adopted under this section. The 20945  
guidelines shall include: 20946

(1) Standards identifying and defining the types of data in 20947  
the system in accordance with divisions (B) and (C) of this 20948  
section; 20949

(2) Procedures for annually collecting and reporting the data 20950  
to the state board in accordance with division (D) of this 20951  
section; 20952

(3) Procedures for annually compiling the data in accordance 20953  
with division (G) of this section; 20954

(4) Procedures for annually reporting the data to the public 20955  
in accordance with division (H) of this section. 20956

(B) The guidelines adopted under this section shall require 20957  
the data maintained in the education management information system 20958  
to include at least the following: 20959

(1) Student participation and performance data, for each 20960  
grade in each school district as a whole and for each grade in 20961  
each school building in each school district, that includes: 20962

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for handicapped students, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of handicap. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed by the testing of student achievement under sections 3301.0710 and 3301.0711 of the Revised Code;

(e) The number of students designated as having a handicapping condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;	20994 20995 20996
(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;	20997 20998 20999
(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.	21000 21001 21002 21003
(h) Expulsion rates;	21004
(i) Suspension rates;	21005
(j) The percentage of students receiving corporal punishment;	21006
(k) Dropout rates;	21007
(l) Rates of retention in grade;	21008
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	21009 21010 21011
(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;	21012 21013 21014 21015 21016
(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.	21017 21018 21019 21020 21021 21022 21023

(2) Personnel and classroom enrollment data for each school district, including: 21024  
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(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building. 21026  
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(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building. 21036  
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(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district. 21048  
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(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school 21053  
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district's pupils, the racial make-up of the school district's 21055  
pupils, and an appropriate measure of the number of the school 21056  
district's pupils who reside in economically disadvantaged 21057  
households. The demographic data shall be collected in a manner to 21058  
allow correlation with data collected under division (B)(1) of 21059  
this section. Categories for data collected pursuant to division 21060  
(B)(3) of this section shall conform, where appropriate, to 21061  
standard practices of agencies of the federal government. 21062

(b) With respect to each student entering kindergarten, 21063  
whether the student previously participated in a public preschool 21064  
program, a private preschool program, or a head start program, and 21065  
the number of years the student participated in each of these 21066  
programs. 21067

(C) The education management information system shall include 21068  
cost accounting data for each district as a whole and for each 21069  
school building in each school district. The guidelines adopted 21070  
under this section shall require the cost data for each school 21071  
district to be maintained in a system of mutually exclusive cost 21072  
units and shall require all of the costs of each school district 21073  
to be divided among the cost units. The guidelines shall require 21074  
the system of mutually exclusive cost units to include at least 21075  
the following: 21076

(1) Administrative costs for the school district as a whole. 21077  
The guidelines shall require the cost units under this division 21078  
(C)(1) to be designed so that each of them may be compiled and 21079  
reported in terms of average expenditure per pupil in formula ADM 21080  
in the school district, as determined pursuant to section 3317.03 21081  
of the Revised Code. 21082

(2) Administrative costs for each school building in the 21083  
school district. The guidelines shall require the cost units under 21084  
this division (C)(2) to be designed so that each of them may be 21085  
compiled and reported in terms of average expenditure per 21086

full-time equivalent pupil receiving instructional or support 21087  
services in each building. 21088

(3) Instructional services costs for each category of 21089  
instructional service provided directly to students and required 21090  
by guidelines adopted pursuant to division (B)(1)(a) of this 21091  
section. The guidelines shall require the cost units under 21092  
division (C)(3) of this section to be designed so that each of 21093  
them may be compiled and reported in terms of average expenditure 21094  
per pupil receiving the service in the school district as a whole 21095  
and average expenditure per pupil receiving the service in each 21096  
building in the school district and in terms of a total cost for 21097  
each category of service and, as a breakdown of the total cost, a 21098  
cost for each of the following components: 21099

(a) The cost of each instructional services category required 21100  
by guidelines adopted under division (B)(1)(a) of this section 21101  
that is provided directly to students by a classroom teacher; 21102

(b) The cost of the instructional support services, such as 21103  
services provided by a speech-language pathologist, classroom 21104  
aide, multimedia aide, or librarian, provided directly to students 21105  
in conjunction with each instructional services category; 21106

(c) The cost of the administrative support services related 21107  
to each instructional services category, such as the cost of 21108  
personnel that develop the curriculum for the instructional 21109  
services category and the cost of personnel supervising or 21110  
coordinating the delivery of the instructional services category. 21111

(4) Support or extracurricular services costs for each 21112  
category of service directly provided to students and required by 21113  
guidelines adopted pursuant to division (B)(1)(b) of this section. 21114  
The guidelines shall require the cost units under division (C)(4) 21115  
of this section to be designed so that each of them may be 21116  
compiled and reported in terms of average expenditure per pupil 21117

receiving the service in the school district as a whole and 21118  
average expenditure per pupil receiving the service in each 21119  
building in the school district and in terms of a total cost for 21120  
each category of service and, as a breakdown of the total cost, a 21121  
cost for each of the following components: 21122

(a) The cost of each support or extracurricular services 21123  
category required by guidelines adopted under division (B)(1)(b) 21124  
of this section that is provided directly to students by a 21125  
licensed employee, such as services provided by a guidance 21126  
counselor or any services provided by a licensed employee under a 21127  
supplemental contract; 21128

(b) The cost of each such services category provided directly 21129  
to students by a nonlicensed employee, such as janitorial 21130  
services, cafeteria services, or services of a sports trainer; 21131

(c) The cost of the administrative services related to each 21132  
services category in division (C)(4)(a) or (b) of this section, 21133  
such as the cost of any licensed or nonlicensed employees that 21134  
develop, supervise, coordinate, or otherwise are involved in 21135  
administering or aiding the delivery of each services category. 21136

(D)(1) The guidelines adopted under this section shall 21137  
require school districts to collect information about individual 21138  
students, staff members, or both in connection with any data 21139  
required by division (B) or (C) of this section or other reporting 21140  
requirements established in the Revised Code. The guidelines may 21141  
also require school districts to report information about 21142  
individual staff members in connection with any data required by 21143  
division (B) or (C) of this section or other reporting 21144  
requirements established in the Revised Code. The guidelines shall 21145  
not authorize school districts to request social security numbers 21146  
of individual students. The guidelines shall prohibit the 21147  
reporting under this section of a student's name, address, and 21148  
social security number to the state board of education or the 21149

department of education. The guidelines shall also prohibit the 21150  
reporting under this section of any personally identifiable 21151  
information about any student, except for the purpose of assigning 21152  
the data verification code required by division (D)(2) of this 21153  
section, to any other person unless such person is employed by the 21154  
school district or the data acquisition site operated under 21155  
section 3301.075 of the Revised Code and is authorized by the 21156  
district or acquisition site to have access to such information. 21157  
The guidelines may require school districts to provide the social 21158  
security numbers of individual staff members. 21159

(2) The guidelines shall provide for each school district or 21160  
community school to assign a data verification code that is unique 21161  
on a statewide basis over time to each student whose initial Ohio 21162  
enrollment is in that district or school and to report all 21163  
required individual student data for that student utilizing such 21164  
code. The guidelines shall also provide for assigning data 21165  
verification codes to all students enrolled in districts or 21166  
community schools on the effective date of the guidelines 21167  
established under this section. 21168

Individual student data shall be reported to the department 21169  
through the data acquisition sites utilizing the code but at no 21170  
time shall the state board or the department have access to 21171  
information that would enable any data verification code to be 21172  
matched to personally identifiable student data. 21173

Each school district shall ensure that the data verification 21174  
code is included in the student's records reported to any 21175  
subsequent school district or community school in which the 21176  
student enrolls and shall remove all references to the code in any 21177  
records retained in the district or school that pertain to any 21178  
student no longer enrolled. Any such subsequent district or school 21179  
shall utilize the same identifier in its reporting of data under 21180  
this section. 21181

(E) The guidelines adopted under this section may require 21182  
school districts to collect and report data, information, or 21183  
reports other than that described in divisions (A), (B), and (C) 21184  
of this section for the purpose of complying with other reporting 21185  
requirements established in the Revised Code. The other data, 21186  
information, or reports may be maintained in the education 21187  
management information system but are not required to be compiled 21188  
as part of the profile formats required under division (G) of this 21189  
section or the annual statewide report required under division (H) 21190  
of this section. 21191

(F) Beginning with the school year that begins July 1, 1991, 21192  
the board of education of each school district shall annually 21193  
collect and report to the state board, in accordance with the 21194  
guidelines established by the board, the data required pursuant to 21195  
this section. A school district may collect and report these data 21196  
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 21197

(G) The state board shall, in accordance with the procedures 21198  
it adopts, annually compile the data reported by each school 21199  
district pursuant to division (D) of this section. The state board 21200  
shall design formats for profiling each school district as a whole 21201  
and each school building within each district and shall compile 21202  
the data in accordance with these formats. These profile formats 21203  
shall: 21204

(1) Include all of the data gathered under this section in a 21205  
manner that facilitates comparison among school districts and 21206  
among school buildings within each school district; 21207

(2) Present the data on academic achievement levels as 21208  
assessed by the testing of student achievement maintained pursuant 21209  
to division (B)(1)(e) of this section so that the academic 21210  
achievement levels of students who are excused from taking any 21211  
such test pursuant to division (C)(1) of section 3301.0711 of the 21212

Revised Code are distinguished from the academic achievement 21213  
levels of students who are not so excused. 21214

(H)(1) The state board shall, in accordance with the 21215  
procedures it adopts, annually prepare a statewide report for all 21216  
school districts and the general public that includes the profile 21217  
of each of the school districts developed pursuant to division (G) 21218  
of this section. Copies of the report shall be sent to each school 21219  
district. 21220

(2) The state board shall, in accordance with the procedures 21221  
it adopts, annually prepare an individual report for each school 21222  
district and the general public that includes the profiles of each 21223  
of the school buildings in that school district developed pursuant 21224  
to division (G) of this section. Copies of the report shall be 21225  
sent to the superintendent of the district and to each member of 21226  
the district board of education. 21227

(3) Copies of the reports received from the state board under 21228  
divisions (H)(1) and (2) of this section shall be made available 21229  
to the general public at each school district's offices. Each 21230  
district board of education shall make copies of each report 21231  
available to any person upon request and payment of a reasonable 21232  
fee for the cost of reproducing the report. The board shall 21233  
annually publish in a newspaper of general circulation in the 21234  
school district, at least twice during the two weeks prior to the 21235  
week in which the reports will first be available, a notice 21236  
containing the address where the reports are available and the 21237  
date on which the reports will be available. 21238

(I) Any data that is collected or maintained pursuant to this 21239  
section and that identifies an individual pupil is not a public 21240  
record for the purposes of section 149.43 of the Revised Code. 21241

(J) As used in this section: 21242

(1) "School district" means any city, local, exempted 21243

village, or joint vocational school district. 21244

(2) "Cost" means any expenditure for operating expenses made 21245  
by a school district excluding any expenditures for debt 21246  
retirement except for payments made to any commercial lending 21247  
institution for any loan approved pursuant to section 3313.483 of 21248  
the Revised Code. 21249

(K) Any person who removes data from the information system 21250  
established under this section for the purpose of releasing it to 21251  
any person not entitled under law to have access to such 21252  
information is subject to section 2913.42 of the Revised Code 21253  
prohibiting tampering with data. 21254

(L) Any time the department of education determines that a 21255  
school district has taken any of the actions described under 21256  
division (L)(1), (2), or (3) of this section, it shall make a 21257  
report of the actions of the district, send a copy of the report 21258  
to the superintendent of such school district, and maintain a copy 21259  
of the report in its files: 21260

(1) The school district fails to meet any deadline 21261  
established pursuant to this section for the reporting of any data 21262  
to the education management information system; 21263

(2) The school district fails to meet any deadline 21264  
established pursuant to this section for the correction of any 21265  
data reported to the education management information system; 21266

(3) The school district reports data to the education 21267  
management information system in a condition, as determined by the 21268  
department, that indicates that the district did not make a good 21269  
faith effort in reporting the data to the system. 21270

Any report made under this division shall include 21271  
recommendations for corrective action by the school district. 21272

Upon making a report for the first time in a fiscal year, the 21273

department shall withhold ten per cent of the total amount due 21274  
during that fiscal year under Chapter 3317. of the Revised Code to 21275  
the school district to which the report applies. Upon making a 21276  
second report in a fiscal year, the department shall withhold an 21277  
additional twenty per cent of such total amount due during that 21278  
fiscal year to the school district to which the report applies. 21279  
The department shall not release such funds unless it determines 21280  
that the district has taken corrective action. However, no such 21281  
release of funds shall occur if the district fails to take 21282  
corrective action within forty-five days of the date upon which 21283  
the report was made by the department. 21284

~~(M) The department of education, after consultation with the 21285  
Ohio education computer network, may provide at no cost to school 21286  
districts uniform computer software for use in reporting data to 21287  
the education management information system, provided that no 21288  
school district shall be required to utilize such software to 21289  
report data to the education management information system if such 21290  
district is so reporting data in an accurate, complete, and timely 21291  
manner in a format compatible with that required by the education 21292  
management information system No data acquisition site or school 21293  
district shall acquire, change, or update its student 21294  
administration software package to manage and report data required 21295  
to be reported to the department unless it converts to a student 21296  
software package that is certified by the department. 21297~~

(N) The state board of education, in accordance with sections 21298  
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 21299  
license as defined under division (A) of section 3319.31 of the 21300  
Revised Code that has been issued to any school district employee 21301  
found to have willfully reported erroneous, inaccurate, or 21302  
incomplete data to the education management information system. 21303

(O) No person shall release or maintain any information about 21304  
any student in violation of this section. Whoever violates this 21305

division is guilty of a misdemeanor of the fourth degree. 21306

(P) The department shall disaggregate the data collected 21307  
under division (B)(1)(o) of this section according to the race and 21308  
socioeconomic status of the students assessed. No data collected 21309  
under that division shall be included on the report cards required 21310  
by section 3302.03 of the Revised Code. 21311

(Q) If the department cannot compile any of the information 21312  
required by division (D)(5) of section 3302.03 of the Revised Code 21313  
based upon the data collected under this section, the department 21314  
shall develop a plan and a reasonable timeline for the collection 21315  
of any data necessary to comply with that division. 21316

Sec. 3301.31. As used in this section and sections 3301.32 to 21317  
3301.38 of the Revised Code: 21318

(A) "Eligible individual" means an individual eligible for 21319  
Title IV-A services. 21320

(B) "Head start agency" means any or all of the following: 21321

(1) An entity in this state that has been approved to be an 21322  
agency for purposes of the "Head Start Act," 95 Stat. 489 (1981), 21323  
42 U.S.C. 9831, as amended; 21324

(2) A Title IV-A head start agency; 21325

(3) A Title IV-A head start plus agency. 21326

(C) "Head start program" has the same meaning as in section 21327  
5104.01 of the Revised Code. 21328

(D) "Title IV-A services" means benefits and services that 21329  
are allowable under Title IV-A of the "Social Security Act," as 21330  
specified in 42 U.S.C.A 604(a), except that they shall not be 21331  
benefits and services included in the term "assistance" as defined 21332  
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 21333  
excluded from the definition of the term "assistance" under 45 21334

C.F.R. 260.31(b). 21335

(E) "Title IV-A head start agency" means an agency receiving funds to operate a head start program as prescribed in section 3301.34 of the Revised Code. 21336  
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(F) "Title IV-A head start plus agency" means an agency receiving funds to operate a head start program as prescribed in section 3301.35 of the Revised Code. 21339  
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**Sec. 3301.33.** (A) There is hereby established the Title IV-A head start program to provide head start program services to eligible individuals. 21342  
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(B) In accordance with the interagency agreement described in division (C) of this section, there is hereby established the Title IV-A head start plus program to provide year-long head start program services and child care services to eligible individuals. 21345  
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(C) The programs established under divisions (A) and (B) of this section shall be administered by the department of education in accordance with an interagency agreement entered into with the department of job and family services under section 5101.801 of the Revised Code. This interagency agreement shall establish the implementation date of the Title IV-A head start plus program, which is July 1, 2004. The programs shall provide Title IV-A services to eligible individuals who meet eligibility requirements established in rules and administrative orders adopted by the department of job and family services under Chapter 5104. of the Revised Code. The department of job and family services and the department of education jointly shall adopt policies and procedures establishing program requirements for eligibility, services, program administration, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended. 21349  
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The department of education shall be responsible for 21366  
approving all Title IV-A head start agencies and Title IV-A head 21367  
start plus agencies for provision of services under the programs 21368  
established under this section. An agency that is not approved by 21369  
the department shall not be reimbursed for the cost of providing 21370  
services under the programs. 21371

Sec. 3301.34. In administering the Title IV-A head start 21372  
program established under division (A) of section 3301.33 of the 21373  
Revised Code, the department of education shall enter into a 21374  
contract with each Title IV-A head start agency establishing the 21375  
terms and conditions applicable to the provision of Title IV-A 21376  
services for eligible individuals. The contracts shall specify the 21377  
respective duties of the Title IV-A head start agencies and the 21378  
department of education, reporting requirements, eligibility 21379  
requirements, reimbursement methodology, audit requirements, and 21380  
other provisions determined necessary. The department of education 21381  
shall reimburse the Title IV-A head start agencies for Title IV-A 21382  
services provided to individuals determined eligible for Title 21383  
IV-A services by the county department of job and family services 21384  
in accordance with the terms of the contract, policies and 21385  
procedures adopted by the department of education and the 21386  
department of job and family services under section 3301.33 of the 21387  
Revised Code, and the interagency agreement entered into by the 21388  
departments. 21389

The department of education shall ensure that all 21390  
reimbursements paid to a Title IV-A head start agency are only for 21391  
Title IV-A services. 21392

The department of education shall ensure that all 21393  
reimbursements paid to a Title IV-A head start agency are for only 21394  
those individuals for Title IV-A services by the appropriate 21395  
county department of job and family services, as provided for in 21396

section 3301.36 of the Revised Code. 21397

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 reimburse the agency for allowable expenses in connection to services provided to eligible individuals. 21398  
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(B) Each county department of job and family services shall assist the department of education in administering the program within its respective county in accordance with requirements established by the state department of job and family services under section 5101.801 of the Revised Code. The county department shall ensure that all reimbursements paid to a Title IV-A head start plus agency are for only Title IV-A services. 21404  
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The administration of the Title IV-A head start plus program by the county department shall include all of the following: 21411  
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(1) Determining eligibility of individuals and establishing co-payment requirements in accordance with rules adopted by the state department of job and family services; 21413  
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(2) Ensuring that any invoices from a Title IV-A head start plus agency comply with requirements of Title IV-A of the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended, including eligibility of individuals, reporting requirements, allowable benefits and services, use of funds, and audit requirements, as specified in state and federal laws and regulations, United States office of management and budget circulars, and the Title IV-A state plan; 21416  
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(3) Monitoring each Title IV-A head start plus agency that receives Title IV-A funds. The county department is responsible for assuring that all Title IV-A funds are used solely for 21424  
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purposes allowable under federal regulations, section 5101.801 of 21427  
the Revised Code, and the Title IV-A state plan and shall take 21428  
prompt action to recover funds that are not expended accordingly. 21429

(C) The department of education shall enter into contracts 21430  
with only those agencies that have been approved by the department 21431  
of education as a Title IV-A head start plus agency and that have 21432  
been licensed in accordance with section 3301.37 of the Revised 21433  
Code. Each contract entered into under this division shall specify 21434  
all of the following: 21435

(1) Requirements applicable to the allowable use of and 21436  
accountability for Title IV-A funds; 21437

(2) Requirements for access, inspection, and examination of 21438  
the agency's financial and program records by the county 21439  
department, the state department of job and family services, the 21440  
department of education, the auditor of state, and any other state 21441  
or federal agency with authority to inspect and examine such 21442  
records; 21443

(3) Applicable audit requirements applicable to funds 21444  
received under the contract; 21445

(4) Reporting requirements by and for the county department, 21446  
the state department of job and family services, and the 21447  
department of education; 21448

(5) Provisions for the department of education to suspend, 21449  
modify, or terminate the contract if the department of education 21450  
suspends or removes the agency from the list of approved Title 21451  
IV-A head start plus agencies or if the state department of job 21452  
and family services denies or revokes a license for the agency. 21453

**Sec. 3301.36.** Each county department of job and family 21454  
services shall determine eligibility for Title IV-A services for 21455  
individuals seeking Title IV-A services from a Title IV-A head 21456

start agency or Title IV-A head start plus agency. 21457

**Sec. 3301.37.** (A) Each entity operating a head start program 21458  
shall be licensed or certified by the department of job and family 21459  
services in accordance with Chapter 5104. of the Revised Code. 21460

(B) Notwithstanding division (A) of this section, any current 21461  
license issued under section 3301.58 of the Revised Code by the 21462  
department of education to an entity operating a head start 21463  
program prior to the effective date of this section is hereby 21464  
deemed to be a license issued by the department of job and family 21465  
services under Chapter 5104. of the Revised Code. The expiration 21466  
date of the license shall be the earlier of the expiration date 21467  
specified in the license as issued under section 3301.58 of the 21468  
Revised Code or September 1, 2005. In order to continue operation 21469  
of its head start program after that expiration date, the entity 21470  
shall obtain a license as prescribed in division (A) of this 21471  
section. 21472

**Sec. 3301.38.** (A) The department of education shall adopt 21473  
policies and procedures for the approval, suspension, and removal 21474  
of Title IV-A head start and Title IV-A head start plus agencies 21475  
from the approved list of providers. 21476

(B) If a head start program that received state funding prior 21477  
to July 1, 2001, waives its right to state funding or has its 21478  
state funding eliminated for not meeting financial standards or 21479  
program performance standards, the grantee or delegates shall 21480  
transfer control of title to property, equipment, and remaining 21481  
supplies purchased with state funds to the department along with 21482  
any reports prescribed by the department. 21483

(C) Title IV-A head start awards shall be distributed on a 21484  
per-pupil basis, which the department may adjust so that the per 21485  
pupil amount multiplied by the number of eligible children 21486

enrolled and receiving services, as defined by the department of 21487  
education, reported on the first day of December or the first 21488  
business day following that date equals the amount allocated. 21489

(D) The department of education shall prescribe the 21490  
assessment instrument and determine target levels for critical 21491  
performance indicators for the purpose of assessing Title IV-A 21492  
head start and Title IV-A head start plus agencies. Onsite reviews 21493  
and follow-up visits shall be based on progress in meeting the 21494  
prescribed target levels. 21495

(E) The department of education shall require Title IV-A head 21496  
start and Title IV-A head start plus agencies to: 21497

(1) Address federal head start education and assessment 21498  
performance standards, as required by 45 C.F.R. 1304.20 to 1304.41 21499  
and the Ohio department of education pre-kindergarten math and 21500  
literacy content standards; 21501

(2) Comply with the department of education prescribed 21502  
assessment requirements that are aligned with the assessment 21503  
system for kindergarten through twelfth grade; 21504

(3) Comply with federal head start performance standards for 21505  
comprehensive services in health, nutrition, mental health, family 21506  
partnership, and social services as required by 45 C.F.R. 1304.20 21507  
to 1304.41; 21508

(4) Require teachers to attend a minimum of twenty hours of 21509  
professional development as prescribed by the department of 21510  
education regarding the implementation of content standards and 21511  
assessment; and 21512

(5) Document and report child progress using research-based 21513  
indicators as prescribed by the department. 21514

(F) Costs for developing and administering a Title IV-A head 21515  
start or Title IV-A head start plus program may not exceed fifteen 21516

percent of the total approved costs of the program. 21517

(G) In consultation with the department of job and family services, the department of education shall establish program requirements for Title IV-A head start and Title IV-A head start plus agencies. 21518  
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(H) The department of education may examine the financial and program records of Title IV-A head start agencies and Title IV-A head start plus agencies. The department of education shall monitor these agencies to ensure that all Title IV-A funds are used solely for purposes allowable under federal regulations, section 5101.801 of the Revised Code, and the Title IV-A state plan and shall take prompt action to recover funds that are not expended accordingly. The department of job and family services may examine the financial records of Title IV-A head start agencies and Title IV-A head start plus agencies. 21522  
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(I)(1) A Title IV-A head start agency or Title IV-A head start plus agency shall propose and implement a corrective action plan that has been approved by the department of education when the department determines either of the following: 21532  
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(a) The financial practices of the Title IV-A head start agency are not in accordance with standard accounting principles and federal requirements or do not meet financial standards required in the contract as specified under division (C) of section 3301.35 of the Revised Code; 21536  
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(b) The Title IV-A head start or Title IV-A head start plus agency fails to substantially meet the head start performance standards or exhibits below average performance as measured against the performance indicators. 21541  
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(2) The approved corrective action plan shall be signed by the appropriate official and agency governance body. 21545  
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(3) The corrective action plan shall include a schedule of 21547

monitoring by the department of education. This monitoring may 21548  
include monthly reports, inspections, a timeline for correction of 21549  
deficiencies, and technical assistance to be provided by the 21550  
department or obtained by the Title IV-A head start agency or 21551  
Title IV-A head start plus agency. The department may withhold 21552  
funding to a Title IV-A head start agency or a Title IV-A head 21553  
start plus agency. 21554

(4) If a Title IV-A head start agency or a Title IV-A head 21555  
start plus agency fails to satisfactorily complete a corrective 21556  
action, the department may suspend or terminate part or all of the 21557  
funding to the agency and may remove the agency from the approved 21558  
list. 21559

(J) The department shall provide technical assistance to 21560  
Title IV-A head start agencies in administering Title IV-A head 21561  
start programs and to Title IV-A head start plus agencies and 21562  
child care partners in administering head start plus programs. 21563

**Sec. ~~3301.33~~ 3301.40.** (A) As used in this section, "adult 21564  
education" has the meaning as established under the "adult 21565  
education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as 21566  
amended. 21567

(B) Beginning July 1, 1996, the department of education may 21568  
distribute state funds to organizations that qualify for federal 21569  
funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 21570  
1201 to 1213d, as amended. The funds shall be used by qualifying 21571  
organizations to provide adult education services. State funds 21572  
distributed pursuant to this section shall be distributed in 21573  
accordance with the rules adopted by the state board of education 21574  
pursuant to this section. 21575

Each organization that receives funds under this section 21576  
shall file program performance reports with the department. The 21577  
reports shall be filed at times required by state board of 21578

education rule and contain assessments of individual students as 21579  
they enter, progress through, and exit the adult education 21580  
program; records regarding individual student program 21581  
participation time; reports of individual student retention rates; 21582  
and any other information required by rule. 21583

(C) The state board of education shall adopt rules for the 21584  
distribution of funds under this section. The rules shall include 21585  
the following: 21586

(1) Requirements for program performance reports. 21587

(2) Indicators of adult education program quality, including 21588  
indicators of learner achievement, program environment, program 21589  
planning, curriculum and instruction, staff development, support 21590  
services, and recruitment and retention. 21591

(3) A formula for the distribution of funds under this 21592  
section. The formula shall include as a factor an organization's 21593  
quantifiable success in meeting the indicators of program quality 21594  
established pursuant to division (C)(2) of this section. 21595

(4) Standards and procedures for reducing or discontinuing 21596  
funding to organizations that fail to meet the requirements of 21597  
this section. 21598

(5) Any other requirements or standards considered 21599  
appropriate by the board. 21600

**Sec. 3301.52.** As used in sections 3301.52 to 3301.59 of the 21601  
Revised Code: 21602

(A) "Preschool program" means either of the following: 21603

(1) A child day-care program for preschool children that is 21604  
operated by a school district board of education, or an eligible 21605  
nonpublic school, ~~a head start grantee, or a head start delegate~~ 21606  
~~agency.~~ 21607

(2) A child day-care program for preschool children age three	21608
or older that is operated by a county MR/DD board.	21609
(B) "Preschool child" or "child" means a child who has not	21610
entered kindergarten and is not of compulsory school age.	21611
(C) "Parent, guardian, or custodian" means the person or	21612
government agency that is or will be responsible for a child's	21613
school attendance under section 3321.01 of the Revised Code.	21614
(D) "Superintendent" means the superintendent of a school	21615
district or the chief administrative officer of an eligible	21616
nonpublic school.	21617
(E) "Director" means the director, head teacher, elementary	21618
principal, or site administrator who is the individual on site and	21619
responsible for supervision of a preschool program.	21620
(F) "Preschool staff member" means a preschool employee whose	21621
primary responsibility is care, teaching, or supervision of	21622
preschool children.	21623
(G) "Nonteaching employee" means a preschool program or	21624
school child program employee whose primary responsibilities are	21625
duties other than care, teaching, and supervision of preschool	21626
children or school children.	21627
(H) "Eligible nonpublic school" means a nonpublic school	21628
chartered as described in division (B)(8) of section 5104.02 of	21629
the Revised Code or chartered by the state board of education for	21630
any combination of grades one through twelve, regardless of	21631
whether it also offers kindergarten.	21632
(I) "County MR/DD board" means a county board of mental	21633
retardation and developmental disabilities.	21634
(J) "School child program" means a child day-care program for	21635
only school children that is operated by a school district board	21636
of education, county MR/DD board, or eligible nonpublic school.	21637

(K) "School child" and "child day-care" have the same 21638  
meanings as in section 5104.01 of the Revised Code. 21639

(L) "School child program staff member" means an employee 21640  
whose primary responsibility is the care, teaching, or supervision 21641  
of children in a school child program. 21642

~~(M) "Head start" means a program operated in accordance with 21643  
subchapter II of the "Community Economic Development Act," 95 21644  
Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto. 21645~~

**Sec. 3301.53.** (A) Not later than July 1, 1988, the state 21646  
board of education, in consultation with the director of job and 21647  
family services, shall formulate and prescribe by rule adopted 21648  
under Chapter 119. of the Revised Code minimum standards to be 21649  
applied to preschool programs operated by school district boards 21650  
of education, county MR/DD boards, or eligible nonpublic schools, 21651  
~~head start grantees, and head start delegate agencies.~~ The rules 21652  
shall include the following: 21653

(1) Standards ensuring that the preschool program is located 21654  
in a safe and convenient facility that accommodates the enrollment 21655  
of the program, is of the quality to support the growth and 21656  
development of the children according to the program objectives, 21657  
and meets the requirements of section 3301.55 of the Revised Code; 21658

(2) Standards ensuring that supervision, discipline, and 21659  
programs will be administered according to established objectives 21660  
and procedures; 21661

(3) Standards ensuring that preschool staff members and 21662  
nonteaching employees are recruited, employed, assigned, 21663  
evaluated, and provided inservice education without discrimination 21664  
on the basis of age, color, national origin, race, or sex; and 21665  
that preschool staff members and nonteaching employees are 21666  
assigned responsibilities in accordance with written position 21667

descriptions commensurate with their training and experience; 21668

(4) A requirement that boards of education intending to 21669  
establish a preschool program on or after March 17, 1989, 21670  
demonstrate a need for a preschool program that is not being met 21671  
by any existing program providing child day-care, prior to 21672  
establishing the program; 21673

(5) Requirements that children participating in preschool 21674  
programs have been immunized to the extent considered appropriate 21675  
by the state board to prevent the spread of communicable disease; 21676

(6) Requirements that the parents of preschool children 21677  
complete the emergency medical authorization form specified in 21678  
section 3313.712 of the Revised Code. 21679

(B) The state board of education in consultation with the 21680  
director of job and family services shall ensure that the rules 21681  
adopted by the state board under sections 3301.52 to 3301.58 of 21682  
the Revised Code are consistent with and meet or exceed the 21683  
requirements of Chapter 5104. of the Revised Code with regard to 21684  
child day-care centers. The state board and the director of job 21685  
and family services shall review all such rules at least once 21686  
every five years. 21687

(C) On or before January 1, 1992, the state board of 21688  
education, in consultation with the director of job and family 21689  
services, shall adopt rules for school child programs that are 21690  
consistent with and meet or exceed the requirements of the rules 21691  
adopted for school child day-care centers under Chapter 5104. of 21692  
the Revised Code. 21693

**Sec. 3301.54.** (A)(1) Each preschool program shall be directed 21694  
and supervised by a director, a head teacher, an elementary 21695  
principal, or a site administrator who is on site and responsible 21696  
for supervision of the program. Except as otherwise provided in 21697

division (A)(2), (3), or (4) of this section, this person shall 21698  
hold a valid educator license designated as appropriate for 21699  
teaching or being an administrator in a preschool setting issued 21700  
pursuant to section 3319.22 of the Revised Code and have completed 21701  
at least four courses in child development or early childhood 21702  
education from an accredited college, university, or technical 21703  
college. 21704

(2) If the person was employed prior to July 1, 1988, by a 21705  
school district board of education or an eligible nonpublic school 21706  
to direct a preschool program, the person shall be considered to 21707  
meet the requirements of this section if the person holds a valid 21708  
kindergarten-primary certificate described under former division 21709  
(A) of section 3319.22 of the Revised Code as it existed on 21710  
January 1, 1996. 21711

(3) If the person is employed to direct a preschool program 21712  
operated by an eligible, nontax-supported, nonpublic school, the 21713  
person shall be considered to meet the requirements of this 21714  
section if the person holds a valid teaching certificate issued in 21715  
accordance with section 3301.071 of the Revised Code. 21716

~~(4) If the person is a site administrator for a head start 21717  
grantee or head start delegate agency, the person shall be 21718  
considered to meet the requirements of this section if the person 21719  
provides evidence that the person has attained at least a high 21720  
school diploma or certification of high school equivalency issued 21721  
by the state board of education or a comparable agency of another 21722  
state, and that the person meets at least one of the following 21723  
requirements:~~ 21724

~~(a) Two years of experience working as a child care staff 21725  
member in a child day care center or preschool program and at 21726  
least four courses in child development or early childhood 21727  
education from an accredited college, university, or technical 21728  
college, except that a person who has two years of experience 21729~~

~~working as a child care staff member in a particular day care center or preschool program and who has been promoted to or designated director shall have one year from the time the person was promoted or designated to complete the required four courses;~~

~~(b) Two years of training in an accredited college, university, or technical college that includes at least four courses in child development or early childhood education;~~

~~(c) A child development associate credential issued by the national child development associate credentialing commission;~~

~~(d) An associate or higher degree in child development or early childhood education from an accredited college, university, or technical college.~~

(B) Each preschool staff member shall be at least eighteen years of age and have a high school diploma or a certification of high school equivalency issued by the state board of education or a comparable agency of another state, except that a staff member may be less than eighteen years of age if the staff member is a graduate of a two-year vocational child-care training program approved by the state board of education, or is a student enrolled in the second year of such a program that leads to high school graduation, provided that the student performs duties in the preschool program under the continuous supervision of an experienced preschool staff member and receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school.

A preschool staff member shall annually complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, and first aid, and in the prevention, recognition, and management of communicable diseases, until a total of forty-five hours has been completed, unless the staff member holds an associate or higher

degree in child development or early childhood education from an 21761  
accredited college, university, or technical college, or any type 21762  
of educator license designated as appropriate for teaching in an 21763  
associate teaching position in a preschool setting issued by the 21764  
state board of education pursuant to section 3319.22 of the 21765  
Revised Code. 21766

**Sec. 3301.55.** (A) A school district, county MR/DD board, or 21767  
eligible nonpublic school, ~~head start grantee, or head start~~ 21768  
~~delegate agency~~ operating a preschool program shall house the 21769  
program in buildings that meet the following requirements: 21770

(1) The building is operated by the district, county MR/DD 21771  
board, or eligible nonpublic school, ~~head start grantee, or head~~ 21772  
~~start delegate agency~~ and has been approved by the division of 21773  
industrial compliance in the department of commerce or a certified 21774  
municipal, township, or county building department for the purpose 21775  
of operating a program for preschool children. Any such structure 21776  
shall be constructed, equipped, repaired, altered, and maintained 21777  
in accordance with applicable provisions of Chapters 3781. and 21778  
3791. and with rules adopted by the board of building standards 21779  
under Chapter 3781. of the Revised Code for the safety and 21780  
sanitation of structures erected for this purpose. 21781

(2) The building is in compliance with fire and safety laws 21782  
and regulations as evidenced by reports of annual school fire and 21783  
safety inspections as conducted by appropriate local authorities. 21784

(3) The school is in compliance with rules established by the 21785  
state board of education regarding school food services. 21786

(4) The facility includes not less than thirty-five square 21787  
feet of indoor space for each child in the program. Safe play 21788  
space, including both indoor and outdoor play space, totaling not 21789  
less than sixty square feet for each child using the space at any 21790  
one time, shall be regularly available and scheduled for use. 21791

(5) First aid facilities and space for temporary placement or 21792  
isolation of injured or ill children are provided. 21793

(B) Each school district, county MR/DD board, or eligible 21794  
nonpublic school, ~~head start grantee, or head start delegate~~ 21795  
~~agency~~ that operates, or proposes to operate, a preschool program 21796  
shall submit a building plan including all information specified 21797  
by the state board of education to the board not later than the 21798  
first day of September of the school year in which the program is 21799  
to be initiated. The board shall determine whether the buildings 21800  
meet the requirements of this section and section 3301.53 of the 21801  
Revised Code, and notify the superintendent of its determination. 21802  
If the board determines, on the basis of the building plan or any 21803  
other information, that the buildings do not meet those 21804  
requirements, it shall cause the buildings to be inspected by the 21805  
department of education. The department shall make a report to the 21806  
superintendent specifying any aspects of the building that are not 21807  
in compliance with the requirements of this section and section 21808  
3301.53 of the Revised Code and the time period that will be 21809  
allowed the district, county MR/DD board, or school, ~~grantee, or~~ 21810  
~~agency~~ to meet the requirements. 21811

**Sec. 3301.57.** (A) For the purpose of improving programs, 21812  
facilities, and implementation of the standards promulgated by the 21813  
state board of education under section 3301.53 of the Revised 21814  
Code, the state department of education shall provide consultation 21815  
and technical assistance to school districts, county MR/DD boards, 21816  
and eligible nonpublic schools, ~~head start grantees, and head~~ 21817  
~~start delegate agencies~~ operating preschool programs or school 21818  
child programs, and inservice training to preschool staff members, 21819  
school child program staff members, and nonteaching employees. 21820

(B) The department and the school district board of 21821  
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 21822

~~start grantee, or head start delegate agency shall jointly monitor~~ 21823  
each preschool program and each school child program. 21824

If the program receives any grant or other funding from the 21825  
state or federal government, the department annually shall monitor 21826  
all reports on attendance, financial support, and expenditures 21827  
according to provisions for use of the funds. 21828

~~(C) The department of job and family services and the~~ 21829  
~~department of education shall enter into a contract pursuant to~~ 21830  
~~which the department of education inspects preschool programs and~~ 21831  
~~school child programs in accordance with sections 3301.52 to~~ 21832  
~~3301.59 of the Revised Code, the rules adopted under those~~ 21833  
~~sections, and any applicable procedures in Chapter 5104. of the~~ 21834  
~~Revised Code and investigates any complaints filed pursuant to~~ 21835  
~~those sections or rules. The contract shall require the department~~ 21836  
~~of job and family services to pay the department of education for~~ 21837  
~~conducting the inspections and investigations an amount equal to~~ 21838  
~~the amount that the department of job and family services would~~ 21839  
~~expend conducting the same number of inspections and~~ 21840  
~~investigations with its employees under Chapter 5104. of the~~ 21841  
~~Revised Code.~~ 21842

~~(D)~~ The department of education, at least twice during every 21843  
twelve-month period of operation of a preschool program or a 21844  
licensed school child program, shall inspect the program and 21845  
provide a written inspection report to the superintendent of the 21846  
school district, county MR/DD board, or eligible nonpublic school, 21847  
~~head start grantee, or head start delegate agency.~~ At least one 21848  
inspection shall be unannounced, and all inspections may be 21849  
unannounced. No person shall interfere with any inspection 21850  
conducted pursuant to this division or to the rules adopted 21851  
pursuant to sections 3301.52 to 3301.59 of the Revised Code. 21852

Upon receipt of any complaint that a preschool program or a 21853  
licensed school child program is out of compliance with the 21854

requirements in sections 3301.52 to 3301.59 of the Revised Code or 21855  
the rules adopted under those sections, the department shall 21856  
investigate and may inspect the program. 21857

~~(E)~~(D) If a preschool program or a licensed school child 21858  
program is determined to be out of compliance with the 21859  
requirements of sections 3301.52 to 3301.59 of the Revised Code or 21860  
the rules adopted under those sections, the department of 21861  
education shall notify the appropriate superintendent, county 21862  
MR/DD board, or eligible nonpublic school, ~~head start grantee, or~~ 21863  
~~head start delegate agency~~ in writing regarding the nature of the 21864  
violation, what must be done to correct the violation, and by what 21865  
date the correction must be made. If the correction is not made by 21866  
the date established by the department, it may commence action 21867  
under Chapter 119. of the Revised Code to close the program or to 21868  
revoke the license of the program. If a program does not comply 21869  
with an order to cease operation issued in accordance with Chapter 21870  
119. of the Revised Code, the department shall notify the attorney 21871  
general, the prosecuting attorney of the county in which the 21872  
program is located, or the city attorney, village solicitor, or 21873  
other chief legal officer of the municipal corporation in which 21874  
the program is located that the program is operating in violation 21875  
of sections 3301.52 to 3301.59 of the Revised Code or the rules 21876  
adopted under those sections and in violation of an order to cease 21877  
operation issued in accordance with Chapter 119. of the Revised 21878  
Code. Upon receipt of the notification, the attorney general, 21879  
prosecuting attorney, city attorney, village solicitor, or other 21880  
chief legal officer shall file a complaint in the court of common 21881  
pleas of the county in which the program is located requesting the 21882  
court to issue an order enjoining the program from operating. The 21883  
court shall grant the requested injunctive relief upon a showing 21884  
that the program named in the complaint is operating in violation 21885  
of sections 3301.52 to 3301.59 of the Revised Code or the rules 21886  
adopted under those sections and in violation of an order to cease 21887

operation issued in accordance with Chapter 119. of the Revised Code. 21888  
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~~(F)~~(E) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999. 21890  
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**Sec. 3301.58.** (A) The department of education is responsible for the licensing of preschool programs and school child programs and for the enforcement of sections 3301.52 to 3301.59 of the Revised Code and of any rules adopted under those sections. No school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ shall operate, establish, manage, conduct, or maintain a preschool program without a license issued under this section. A school district board of education, county MR/DD board, or eligible nonpublic school may obtain a license under this section for a school child program. The school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ shall post the current license for each preschool program and licensed school child program it operates, establishes, manages, conducts, or maintains in a conspicuous place in the preschool program or licensed school child program that is accessible to parents, custodians, or guardians and employees and staff members of the program at all times when the program is in operation. 21898  
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(B) Any school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head~~ 21917  
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~~start delegate agency~~ that desires to operate, establish, manage, 21919  
conduct, or maintain a preschool program shall apply to the 21920  
department of education for a license on a form that the 21921  
department shall prescribe by rule. Any school district board of 21922  
education, county MR/DD board, or eligible nonpublic school that 21923  
desires to obtain a license for a school child program shall apply 21924  
to the department for a license on a form that the department 21925  
shall prescribe by rule. The department shall provide at no charge 21926  
to each applicant for a license under this section a copy of the 21927  
requirements under sections 3301.52 to 3301.59 of the Revised Code 21928  
and any rules adopted under those sections. The department shall 21929  
mail application forms for the renewal of a license at least one 21930  
hundred twenty days prior to the date of the expiration of the 21931  
license, and the application for renewal of a license shall be 21932  
filed with the department at least sixty days before the date of 21933  
the expiration of the existing license. The department may 21934  
establish application fees by rule adopted under Chapter 119. of 21935  
the Revised Code, and all applicants for a license shall pay any 21936  
fee established by the department at the time of making an 21937  
application for a license. All fees collected pursuant to this 21938  
section shall be paid into the state treasury to the credit of the 21939  
general revenue fund. 21940

(C) Upon the filing of an application for a license, the 21941  
department of education shall investigate and inspect the 21942  
preschool program or school child program to determine the license 21943  
capacity for each age category of children of the program and to 21944  
determine whether the program complies with sections 3301.52 to 21945  
3301.59 of the Revised Code and any rules adopted under those 21946  
sections. When, after investigation and inspection, the department 21947  
of education is satisfied that sections 3301.52 to 3301.59 of the 21948  
Revised Code and any rules adopted under those sections are 21949  
complied with by the applicant, the department of education shall 21950  
issue the program a provisional license as soon as practicable in 21951

the form and manner prescribed by the rules of the department. The 21952  
provisional license shall be valid for six months from the date of 21953  
issuance unless revoked. 21954

(D) The department of education shall investigate and inspect 21955  
a preschool program or school child program that has been issued a 21956  
provisional license at least once during operation under the 21957  
provisional license. If, after the investigation and inspection, 21958  
the department of education determines that the requirements of 21959  
sections 3301.52 to 3301.59 of the Revised Code and any rules 21960  
adopted under those sections are met by the provisional licensee, 21961  
the department of education shall issue a license that is 21962  
effective for two years from the date of the issuance of the 21963  
provisional license. 21964

(E) Upon the filing of an application for the renewal of a 21965  
license by a preschool program or school child program, the 21966  
department of education shall investigate and inspect the 21967  
preschool program or school child program. If the department of 21968  
education determines that the requirements of sections 3301.52 to 21969  
3301.59 of the Revised Code and any rules adopted under those 21970  
sections are met by the applicant, the department of education 21971  
shall renew the license for two years from the date of the 21972  
expiration date of the previous license. 21973

(F) The license or provisional license shall state the name 21974  
of the school district board of education, county MR/DD board, or 21975  
eligible nonpublic school, ~~head start grantee, or head start~~ 21976  
~~delegate agency~~ that operates the preschool program or school 21977  
child program and the license capacity of the program. The license 21978  
shall include any other information required by section 5104.03 of 21979  
the Revised Code for the license of a child day-care center. 21980

(G) The department of education may revoke the license of any 21981  
preschool program or school child program that is not in 21982  
compliance with the requirements of sections 3301.52 to 3301.59 of 21983

the Revised Code and any rules adopted under those sections. 21984

(H) If the department of education revokes a license or 21985  
refuses to renew a license to a program, the department shall not 21986  
issue a license to the program within two years from the date of 21987  
the revocation or refusal. All actions of the department with 21988  
respect to licensing preschool programs and school child programs 21989  
shall be in accordance with Chapter 119. of the Revised Code. 21990

**Sec. 3301.68.** There is hereby created the legislative 21991  
committee on education oversight as a subcommittee of the 21992  
legislative service commission. The committee shall consist of 21993  
five members of the house of representatives appointed by the 21994  
speaker of the house of representatives and five members of the 21995  
senate appointed by the president of the senate. Not more than 21996  
three of the members appointed from each house shall be members of 21997  
the same political party. Members shall serve during the term of 21998  
office to which they were elected. 21999

The committee, subject to the oversight and direction of the 22000  
legislative service commission, shall direct the work of the 22001  
legislative office of education oversight, which is hereby 22002  
established. The committee may employ a staff director and such 22003  
other staff as are necessary for the operation of the office, who 22004  
shall be in the unclassified service of the state, and may 22005  
contract for the services of whatever technical advisors are 22006  
necessary for the committee and the office to carry out their 22007  
duties. 22008

The chairperson and vice-chairperson of the legislative 22009  
service commission shall fix the compensation of the director. The 22010  
director, with the approval of the director of the legislative 22011  
service commission, shall fix the compensation of other staff of 22012  
the office in accordance with a salary schedule established by the 22013  
director of the legislative service commission. Contracts for the 22014

services of necessary technical advisors shall be approved by the 22015  
director of the legislative service commission. 22016

All expenses incurred by the committee or office shall be 22017  
paid upon vouchers approved by the chairperson of the committee. 22018  
The committee shall adopt rules for the conduct of its business 22019  
and the election of officers, except that the office of 22020  
chairperson of the committee shall alternate each general assembly 22021  
between a member of the house of representatives selected by the 22022  
speaker and a member of the senate selected by the president. 22023

The committee shall select, for the office to review and 22024  
evaluate, education and school-related programs that receive state 22025  
financial assistance in any form. The reviews and evaluations may 22026  
include any of the following: 22027

(A) Assessment of the uses school districts and institutions 22028  
of higher education make of state money they receive and 22029  
determination of the extent to which such money improves school 22030  
district or institutional performance in the areas for which the 22031  
money was intended to be used; 22032

(B) Determination of whether an education program meets its 22033  
intended goals, has adequate operating or administrative 22034  
procedures and fiscal controls, encompasses only authorized 22035  
activities, has any undesirable or unintended effects, and is 22036  
efficiently managed; 22037

(C) Examination of various pilot programs developed and 22038  
initiated in school districts and at state-assisted colleges and 22039  
universities to determine whether such programs suggest 22040  
innovative, effective ways to deal with problems that may exist in 22041  
other school districts or state-assisted colleges or universities, 22042  
and to assess the fiscal costs and likely impact of adopting such 22043  
programs throughout the state or in other state-assisted colleges 22044  
and universities. 22045

The committee shall report the results of each program review 22046  
the office conducts to the general assembly. 22047

If the general assembly directs the legislative office of 22048  
education oversight to submit a study to the general assembly by a 22049  
particular date, the committee has the authority to modify the 22050  
scope and due date of the study to accommodate the availability of 22051  
data and resources. 22052

**Sec. 3301.80.** (A) There is hereby created the Ohio SchoolNet 22053  
commission as an independent agency. The commission shall 22054  
administer programs to provide financial and other assistance to 22055  
school districts and other educational institutions for the 22056  
acquisition and utilization of educational technology. 22057

The commission is a body corporate and politic, an agency of 22058  
the state performing essential governmental functions of the 22059  
state. 22060

(B)(1) The commission shall consist of ~~eleven~~ thirteen 22061  
members, ~~seven~~ nine of whom are voting members. Of the voting 22062  
members, one shall be appointed by the speaker of the house of 22063  
representatives ~~and~~, one shall be appointed by the president of 22064  
the senate, and two shall be appointed by the governor. The 22065  
members appointed by the speaker of the house and the president of 22066  
the senate shall not be members of the general assembly. The state 22067  
superintendent of public instruction or a designee of the 22068  
superintendent, the director of budget and management or a 22069  
designee of the director, the director of administrative services 22070  
or a designee of the director, the chairperson of the public 22071  
utilities commission or a designee of the chairperson, and the 22072  
director of the Ohio educational telecommunications network 22073  
commission or a designee of the director shall serve on the 22074  
commission as ex officio voting members. Of the nonvoting members, 22075  
two shall be members of the house of representatives appointed by 22076

the speaker of the house and two shall be members of the senate 22077  
appointed by the president of the senate. The members appointed 22078  
from each house shall not be members of the same political party. 22079  
The commission shall appoint officers from among its members. 22080

(2) The members shall serve without compensation. The voting 22081  
members appointed by the speaker of the house of representatives 22082  
~~and~~, the president of the senate, and the governor shall be 22083  
reimbursed, pursuant to office of budget and management 22084  
guidelines, for necessary expenses incurred in the performance of 22085  
official duties. 22086

(3) The terms of office for the members appointed by the 22087  
speaker of the house ~~and~~, the president of the senate, and the 22088  
governor shall be for two years, with each term ending on the same 22089  
day of the same month as did the term that it succeeds, except 22090  
that the voting members so appointed may be removed at ~~anytime~~ any 22091  
time by their respective appointing authority. The members 22092  
appointed by the speaker of the house ~~and~~, the president of the 22093  
senate, and the governor may be reappointed. Any member appointed 22094  
from the house of representatives or senate who ceases to be a 22095  
member of the legislative house from which the member was 22096  
appointed shall cease to be a member of the commission. Vacancies 22097  
among appointed members shall be filled in the manner provided for 22098  
original appointments. Any member appointed to fill a vacancy 22099  
occurring prior to the expiration date of the term for which a 22100  
predecessor was appointed shall hold office as a member for the 22101  
remainder of that term. The members appointed by the speaker of 22102  
the house ~~and~~, the president of the senate, and the governor shall 22103  
continue in office subsequent to the expiration date of that 22104  
member's term until a successor takes office or until a period of 22105  
sixty days has elapsed, whichever occurs first. 22106

(C)(1) The commission shall be under the supervision of an 22107  
executive director who shall be appointed by the commission. The 22108

executive director shall serve at the pleasure of the commission 22109  
and shall direct commission employees in the administration of all 22110  
programs for the provision of financial and other assistance to 22111  
school districts and other educational institutions for the 22112  
acquisition and utilization of educational technology. 22113

(2) The employees of the Ohio SchoolNet commission shall be 22114  
placed in the unclassified service. The commission shall fix the 22115  
compensation of the executive director. The executive director 22116  
shall employ and fix the compensation for such employees as 22117  
necessary to facilitate the activities and purposes of the 22118  
commission. The employees shall serve at the pleasure of the 22119  
executive director. 22120

(3) The employees of the Ohio SchoolNet commission shall be 22121  
exempt from Chapter 4117. of the Revised Code and shall not be 22122  
public employees as defined in section 4117.01 of the Revised 22123  
Code. 22124

(D) The Ohio SchoolNet commission shall do all of the 22125  
following: 22126

(1) Make grants to institutions and other organizations as 22127  
prescribed by the general assembly for the provision of technical 22128  
assistance, professional development, and other support services 22129  
to enable school districts, community schools established under 22130  
Chapter 3314. of the Revised Code, and other educational 22131  
institutions to utilize educational technology; 22132

(2) Contract with the department of education, state 22133  
institutions of higher education, private nonprofit institutions 22134  
of higher education holding certificates of authorization under 22135  
section 1713.02 of the Revised Code, and such other public or 22136  
private entities as the executive director deems necessary for the 22137  
administration and implementation of the programs under the 22138  
commission's jurisdiction; 22139

(3) Establish a reporting system to which school districts, 22140  
community schools established under Chapter 3314. of the Revised 22141  
Code, and other educational institutions receiving financial 22142  
assistance pursuant to this section for the acquisition of 22143  
educational technology report information as to the manner in 22144  
which such assistance was expended, the manner in which the 22145  
equipment or services purchased with the assistance is being 22146  
utilized, the results or outcome of this utilization, and other 22147  
information as may be required by the commission; 22148

(4) Establish necessary guidelines governing purchasing and 22149  
procurement by participants in programs administered by the 22150  
commission that facilitate the timely and effective implementation 22151  
of such programs; 22152

(5) Take into consideration the efficiency and cost savings 22153  
of statewide procurement prior to allocating and releasing funds 22154  
for any programs under its administration. 22155

(E)(1) The executive director shall implement policies and 22156  
directives issued by the Ohio SchoolNet commission. 22157

(2) The Ohio SchoolNet commission may establish a systems 22158  
support network to facilitate the timely implementation of the 22159  
programs, projects, or activities for which it provides 22160  
assistance. 22161

(3) Chapters 123., 124., 125., and 153., and sections 9.331, 22162  
9.332, and 9.333 of the Revised Code do not apply to contracts, 22163  
programs, projects, or activities of the Ohio SchoolNet 22164  
commission. 22165

**Sec. 3302.03.** (A) Annually the department of education shall 22166  
report for each school district the extent to which it meets each 22167  
of the performance indicators created by the state board of 22168  
education under section 3302.02 of the Revised Code and shall 22169

specify for each such district the number of performance 22170  
indicators that have been achieved and whether the district is an 22171  
excellent school district, an effective school district, needs 22172  
continuous improvement, is under an academic watch, or is in a 22173  
state of academic emergency. 22174

When possible, the department shall also determine for each 22175  
school building in a district the extent to which it meets any of 22176  
the performance indicators applicable to the grade levels of the 22177  
students in that school building and whether the school building 22178  
is an excellent school, an effective school, needs continuous 22179  
improvement, is under an academic watch, or is in a state of 22180  
academic emergency. 22181

(B) If the state board establishes seventeen performance 22182  
indicators applicable to a school district or building under 22183  
section 3302.02 of the Revised Code: 22184

(1) A school district or building shall be declared excellent 22185  
if it meets at least sixteen of the applicable state performance 22186  
indicators. 22187

(2) A school district or building shall be declared effective 22188  
if it meets thirteen through fifteen of the applicable state 22189  
performance indicators. 22190

(3) A school district or building shall be declared to be in 22191  
need of continuous improvement if it meets more than eight but 22192  
less than thirteen of the applicable state performance indicators. 22193

(4) A school district or building shall be declared to be 22194  
under an academic watch if it meets more than five but not more 22195  
than eight of the applicable state performance indicators. 22196

(5) A school district or building shall be declared to be in 22197  
a state of academic emergency if it does not meet more than five 22198  
of the applicable state performance indicators. 22199

(C) If the state board establishes more than seventeen performance indicators under section 3302.02 of the Revised Code, or if less than seventeen performance indicators are applicable to a school building, the state board shall establish the number of indicators that must be met in order for a district or building to be designated as excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency. The number established for each such category under this division shall bear a similar relationship to the total number of indicators as the number of indicators required for the respective categories stated in division (B) of this section bears to seventeen.

(D)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code.

(2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator.

(3) When reporting data on student performance, the department shall disaggregate that data according to the following categories:

(a) Performance of students by age group;

(b) Performance of students by race and ethnic group;

(c) Performance of students by gender;

(d) Performance of students grouped by those who have been enrolled in a district or school for three or more years;

(e) Performance of students grouped by those who have been

enrolled in a district or school for more than one year and less than three years;	22230 22231
(f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;	22232 22233
<del>(g) Performance of students grouped by those who are classified as vocational education students pursuant to guidelines adopted by the department for purposes of this division;</del>	22234 22235 22236
<del>(h)</del> Performance of students grouped by those who are economically disadvantaged, to the extent that such data is available from the education management information system established under section 3301.0714 of the Revised Code;	22237 22238 22239 22240
<del>(i)</del> <u>(h)</u> Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code.	22241 22242 22243
The department may disaggregate data on student performance according to other categories that the department determines are appropriate.	22244 22245 22246
In reporting data pursuant to division (D)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students.	22247 22248 22249 22250
(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.	22251 22252 22253
(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports	22254 22255 22256 22257 22258 22259

prepared under section 3302.031 of the Revised Code. 22260

The department shall maintain a site on the world wide web. 22261  
The report card shall include the address of the site and shall 22262  
specify that such additional information is available to the 22263  
public at that site. The department shall also provide a copy of 22264  
each item on the list to the superintendent of each school 22265  
district. The district superintendent shall provide a copy of any 22266  
item on the list to anyone who requests it. 22267

(6) For any district that sponsors a conversion community 22268  
school under Chapter 3314. of the Revised Code, the department 22269  
shall combine data regarding the academic performance of students 22270  
enrolled in the community school with comparable data from the 22271  
schools of the district for the purpose of calculating the 22272  
performance of the district as a whole on the report card issued 22273  
for the district. 22274

(E) In calculating reading, writing, mathematics, social 22275  
studies, or science proficiency or achievement test passage rates 22276  
used to determine school district performance under this section, 22277  
the department shall include all students taking a test with 22278  
accommodation or to whom an alternate assessment is administered 22279  
pursuant to division (C)(1) of section 3301.0711 of the Revised 22280  
Code, but shall not include any student excused from taking a test 22281  
pursuant to division (C)(3) of that section, whether or not the 22282  
student chose to take the test voluntarily in spite of the 22283  
exemption granted in that division. 22284

**Sec. 3311.05.** (A) The territory within the territorial limits 22285  
of a county, or the territory included in a district formed under 22286  
either section 3311.053 or 3311.059 of the Revised Code, exclusive 22287  
of the territory embraced in any city school district or exempted 22288  
village school district, and excluding the territory detached 22289  
therefrom for school purposes and including the territory attached 22290

thereto for school purposes constitutes an educational service center. 22291  
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(B) A county school financing district created under section 3311.50 of the Revised Code is not the school district described in division (A) of this section or any other school district but is a taxing district. 22293  
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Sec. 3311.059. The procedure prescribed in this section may be used in lieu of a transfer prescribed under section 3311.231 of the Revised Code. 22297  
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(A) Subject to divisions (B) and (C) of this section, a board of education of a local school district may by a resolution approved by a majority of all its members propose to sever that local school district from the territory of the educational service center in which the local school district is currently included and to instead annex the local school district to the territory of another educational service center, the current territory of which is adjacent to the territory of the educational service center in which the local school district is currently included. The resolution shall promptly be filed with the governing board of each educational service center affected by the resolution and with the superintendent of public instruction. 22300  
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(B) The resolution adopted under division (A) of this section shall not be effective unless it is approved by both the governing board of the educational service center to which the board of education proposes to annex the local school district and the state board of education. The severance of the local school district from one educational service center and its annexation to another educational service center under this section shall not be effective until one year after the first day of July following the later of the date that the governing board of the educational service center to which the local school district is proposed to 22312  
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be annexed approves the resolution or the date the board of 22322  
elections certifies the results of the referendum election as 22323  
provided in division (C) of this section. 22324

(C) Within sixty days following the date of the adoption of 22325  
the resolution under division (A) of this section, the electors of 22326  
the local school district may petition for a referendum vote on 22327  
the resolution. The question whether to approve or disapprove the 22328  
resolution shall be submitted to the electors of such school 22329  
district if a number of qualified electors equal to twenty per 22330  
cent of the number of electors in the school district who voted 22331  
for the office of governor at the most recent general election for 22332  
that office sign a petition asking that the question of whether 22333  
the resolution shall be disapproved be submitted to the electors. 22334  
The petition shall be filed with the board of elections of the 22335  
county in which the school district is located. If the school 22336  
district is located in more than one county, the petition shall be 22337  
filed with the board of elections of the county in which the 22338  
majority of the territory of the school district is located. The 22339  
board shall certify the validity and sufficiency of the signatures 22340  
on the petition. 22341

The board of elections shall immediately notify the board of 22342  
education of the local school district and the governing board of 22343  
each educational service center affected by the resolution that 22344  
the petition has been filed. 22345

The effect of the resolution shall be stayed until the board 22346  
of elections certifies the validity and sufficiency of the 22347  
signatures on the petition. If the board of elections determines 22348  
that the petition does not contain a sufficient number of valid 22349  
signatures and sixty days have passed since the adoption of the 22350  
resolution, the resolution shall become effective as provided in 22351  
division (B) of this section. 22352

If the board of elections certifies that the petition 22353

contains a sufficient number of valid signatures, the board shall 22354  
submit the question to the qualified electors of the school 22355  
district on the day of the next general or primary election held 22356  
at least seventy-five days after the board of elections certifies 22357  
the validity and sufficiency of signatures on the petition. The 22358  
election shall be conducted and canvassed and the results shall be 22359  
certified in the same manner as in regular elections for the 22360  
election of members of a board of education. 22361

If a majority of the electors voting on the question 22362  
disapprove the resolution, the resolution shall not become 22363  
effective. If a majority of the electors voting on the question 22364  
approve the resolution, the resolution shall become effective as 22365  
provided in division (B) of this section. 22366

(D) Upon the effective date of the severance of the local 22367  
school district from one educational service center and its 22368  
annexation to another educational service center as provided in 22369  
division (B) of this section, the governing board of each 22370  
educational service center shall take such steps for the election 22371  
of members of the governing board and for organization of the 22372  
governing board as prescribed in Chapter 3313. of the Revised 22373  
Code. 22374

**Sec. 3311.24.** (A) Except as provided in division (B) of this 22375  
section, if the board of education of a city, exempted village, or 22376  
local school district deems it advisable to transfer territory 22377  
from such district to an adjoining city, exempted village, or 22378  
local school district, or if a petition, signed by seventy-five 22379  
per cent of the qualified electors residing within that portion of 22380  
a city, exempted village, or local school district proposed to be 22381  
transferred voting at the last general election, requests such a 22382  
transfer, the board of education of the district in which such 22383  
proposal originates shall file such proposal, together with a map 22384

showing the boundaries of the territory proposed to be 22385  
transferred, with the state board of education prior to the first 22386  
day of April in any even-numbered year. The state board of 22387  
education may, if it is advisable, provide for a hearing in any 22388  
suitable place in any of the school districts affected by such 22389  
proposed transfer of territory. The state board of education or 22390  
its representatives shall preside at any such hearing. 22391

A board of education of a city, exempted village, or local 22392  
school district that receives a petition of transfer under this 22393  
division shall cause the board of elections to check the 22394  
sufficiency of signatures on the petition. 22395

Not later than the first day of September the state board of 22396  
education shall either approve or disapprove a proposed transfer 22397  
of territory filed with it as provided by this section and shall 22398  
notify, in writing, the boards of education of the districts 22399  
affected by such proposed transfer of territory of its decision. 22400

If the decision of the state board of education is an 22401  
approval of the proposed transfer of territory then the board of 22402  
education of the district in which the territory is located shall, 22403  
within thirty days after receiving the state board of education's 22404  
decision, adopt a resolution transferring the territory and shall 22405  
forthwith submit a copy of such resolution to the treasurer of the 22406  
board of education of the city, exempted village, or local school 22407  
district to which the territory is transferred. Such transfer 22408  
shall not be complete however, until: 22409

(1) A resolution accepting the transfer has been passed by a 22410  
majority vote of the full membership of the board of education of 22411  
the city, exempted village, or local school district to which the 22412  
territory is transferred; 22413

(2) An equitable division of the funds and indebtedness 22414  
between the districts involved has been made by the board of 22415

education making the transfer; 22416

(3) A map showing the boundaries of the territory transferred 22417  
has been filed, by the board of education accepting the transfer, 22418  
with the county auditor of each county affected by the transfer. 22419

When such transfer is complete the legal title of the school 22420  
property in the territory transferred shall be vested in the board 22421  
of education or governing board of the school district to which 22422  
the territory is transferred. 22423

(B) Whenever the transfer of territory pursuant to this 22424  
section is initiated by a board of education, the board shall, 22425  
before filing a proposal for transfer with the state board of 22426  
education under this section, make a good faith effort to 22427  
negotiate the terms of transfer with any other school district 22428  
whose territory would be affected by the transfer. Before the 22429  
state board may hold a hearing on the transfer, or approve or 22430  
disapprove any such transfer, it must receive the following: 22431

(1) A resolution requesting approval of the transfer, passed 22432  
by the school district submitting the proposal; 22433

(2) Evidence determined to be sufficient by the state board 22434  
to show that good faith negotiations have taken place or that the 22435  
district requesting the transfer has made a good faith effort to 22436  
hold such negotiations; 22437

(3) If any negotiations took place, a statement signed by all 22438  
boards that participated in the negotiations, listing the terms 22439  
agreed on and the points on which no agreement could be reached. 22440

Negotiations held pursuant to this section shall be governed 22441  
by the rules adopted by the state board under division (D) of 22442  
section 3311.06 of the Revised Code. Districts involved in a 22443  
transfer under division (B) of this section may agree to share 22444  
revenues from the property included in the territory to be 22445  
transferred, establish cooperative programs between the 22446

participating districts, and establish mechanisms for the 22447  
settlement of any future boundary disputes. 22448

~~Sec. 3311.26. A governing board of an educational service~~ 22449  
~~center~~ The state board of education may, by resolution adopted by 22450  
majority vote of its full membership, propose the creation of a 22451  
new local school district from one or more local school districts 22452  
or parts thereof, including the creation of a local district with 22453  
noncontiguous territory from one or more local school districts if 22454  
one of those districts has entered into an agreement under section 22455  
3313.42 of the Revised Code. Such proposal shall include an 22456  
accurate map showing the territory affected. After the adoption of 22457  
the resolution, the ~~governing~~ state board shall file a copy of 22458  
such proposal with the board of education of each school district 22459  
whose boundaries would be altered by such proposal. 22460

~~A governing board of a service center proposing~~ Upon the 22461  
creation of a new district under this section, the state board 22462  
shall at its next regular meeting that occurs not earlier than 22463  
thirty days after the adoption by the ~~governing~~ state board of the 22464  
resolution proposing such creation, adopt a resolution making the 22465  
creation effective prior to the next succeeding first day of July, 22466  
unless, prior to the expiration of such thirty-day period, 22467  
qualified electors residing in the area included in such proposed 22468  
new district, equal in number to thirty-five per cent of the 22469  
qualified electors voting at the last general election, file a 22470  
petition of referendum against the creation of the proposed new 22471  
district. 22472

A petition of referendum filed under this section shall be 22473  
filed at the office of the ~~educational service center~~ state 22474  
superintendent of public instruction. The person presenting the 22475  
petition shall be given a receipt containing thereon the time of 22476  
day, the date, and the purpose of the petition. 22477

If a petition of referendum is filed, the ~~governing state~~ 22478  
board shall, at the next regular meeting of the ~~governing state~~ 22479  
board, certify the proposal to the board of elections for the 22480  
purpose of having the proposal placed on the ballot at the next 22481  
general or primary election which occurs not less than 22482  
seventy-five days after the date of such certification, or at a 22483  
special election, the date of which shall be specified in the 22484  
certification, which date shall not be less than seventy-five days 22485  
after the date of such certification. 22486

Upon certification of a proposal to the board or boards of 22487  
elections pursuant to this section, the board or boards of 22488  
elections shall make the necessary arrangements for the submission 22489  
of such question to the electors of the county or counties 22490  
qualified to vote thereon, and the election shall be conducted and 22491  
canvassed and the results shall be certified in the same manner as 22492  
in regular elections for the election of members of a board of 22493  
education. 22494

The persons qualified to vote upon a proposal are the 22495  
electors residing in the proposed new districts. 22496

If the proposed district be approved by at least a majority 22497  
of the electors voting on the proposal, the ~~governing state~~ board 22498  
shall then create such new district prior to the next succeeding 22499  
first day of July, ~~and shall so notify the state board of~~ 22500  
~~education.~~ 22501

Upon the creation of such district, the indebtedness of each 22502  
former district becoming in its entirety a part of the new 22503  
district shall be assumed in full by the new district. Upon the 22504  
creation of such district, that part of the net indebtedness of 22505  
each former district becoming only in part a part of the new 22506  
district shall be assumed by the new district which bears the same 22507  
ratio to the entire net indebtedness of the former district as the 22508

assessed valuation of the part taken by the new district bears to 22509  
the entire assessed valuation of the former district as fixed on 22510  
the effective date of transfer. As used in this section, "net 22511  
indebtedness" means the difference between the par value of the 22512  
outstanding and unpaid bonds and notes of the school district and 22513  
the amount held in the sinking fund and other indebtedness 22514  
retirement funds for their redemption. Upon the creation of such 22515  
district, the funds of each former district becoming in its 22516  
entirety a part of the new district shall be paid over in full to 22517  
the new district. Upon the creation of such district, the funds of 22518  
each former district becoming only in part a part of the new 22519  
district shall be divided equitably by the ~~governing~~ state board 22520  
between the new district and that part of the former district not 22521  
included in the new district as such funds existed on the 22522  
effective date of the creation of the new district. 22523

The ~~governing~~ state board shall, following the election, file 22524  
with the county auditor of each county affected by the creation of 22525  
a new district an accurate map showing the boundaries of such 22526  
newly created district. 22527

When a new local school district is so created ~~within an~~ 22528  
~~educational service center~~, a board of education for such newly 22529  
created district shall be appointed by the ~~educational service~~ 22530  
~~center governing~~ state board. The members of such appointed board 22531  
of education shall hold their office until their successors are 22532  
elected and qualified. A board of education shall be elected for 22533  
such newly created district at the next general election held in 22534  
an odd numbered year occurring more than thirty days after the 22535  
appointment of the board of education of such newly created 22536  
district. At such election two members shall be elected for a term 22537  
of two years and three members shall be elected for a term of four 22538  
years, and, thereafter, their successors shall be elected in the 22539  
same manner and for the same terms as members of the board of 22540

education of a local school district. 22541

When the new district consists of territory lying in two or 22542  
more counties, the state board shall determine to which 22543  
educational service center the new district shall be assigned. 22544

The legal title of all property of the board of education in 22545  
the territory taken shall become vested in the board of education 22546  
of the newly created school district. 22547

Foundation program moneys accruing to a district created 22548  
under the provisions of this section or previous section 3311.26 22549  
of the Revised Code, shall not be less, in any year during the 22550  
next succeeding three years following the creation, than the sum 22551  
of the amounts received by the districts separately in the year in 22552  
which the creation of the district became effective. 22553

If, prior to the effective date of this amendment, a local 22554  
school district board of education or a group of individuals 22555  
requests the governing board of an educational service center to 22556  
consider proposing the creation of a new local school district, 22557  
the governing board, at any time during the one-year period 22558  
following the date that request is made, may adopt a resolution 22559  
proposing the creation of a new local school district in response 22560  
to that request and in accordance with the first paragraph of the 22561  
version of this section in effect prior to the effective date of 22562  
this amendment. If the governing board so proposes within that 22563  
one-year period, the governing board may proceed to create the new 22564  
local school district as it proposed, in accordance with the 22565  
version of this section in effect prior to the effective date of 22566  
this amendment, subject to the provisions of that version 22567  
authorizing a petition and referendum on the matter. 22568

Consolidations of school districts which include all of the 22569  
schools of a county and which become effective on or after July 1, 22570  
1959, shall be governed and included under this section. 22571

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 22572  
(F), and (G) of this section, when a board of education decides to 22573  
dispose of real or personal property that it owns in its corporate 22574  
capacity, and that exceeds in value ten thousand dollars, it shall 22575  
sell the property at public auction, after giving at least thirty 22576  
days' notice of the auction by publication in a newspaper of 22577  
general circulation or by posting notices in five of the most 22578  
public places in the school district in which the property, if it 22579  
is real property, is situated, or, if it is personal property, in 22580  
the school district of the board of education that owns the 22581  
property. The board may offer real property for sale as an entire 22582  
tract or in parcels. 22583

(B) When the board of education has offered real or personal 22584  
property for sale at public auction at least once pursuant to 22585  
division (A) of this section, and the property has not been sold, 22586  
the board may sell it at a private sale. Regardless of how it was 22587  
offered at public auction, at a private sale, the board shall, as 22588  
it considers best, sell real property as an entire tract or in 22589  
parcels, and personal property in a single lot or in several lots. 22590

(C) If a board of education decides to dispose of real or 22591  
personal property that it owns in its corporate capacity and that 22592  
exceeds in value ten thousand dollars, it may sell the property to 22593  
the adjutant general; to any subdivision or taxing authority as 22594  
respectively defined in divisions (A) and (C) of section 5705.01 22595  
of the Revised Code, township park district, board of park 22596  
commissioners established under Chapter 755. of the Revised Code, 22597  
or park district established under Chapter 1545. of the Revised 22598  
Code; to a wholly or partially tax-supported university, 22599  
university branch, or college; or to the board of trustees of a 22600  
school district library, upon such terms as are agreed upon. The 22601  
sale of real or personal property to the board of trustees of a 22602

school district library is limited, in the case of real property, 22603  
to a school district library within whose boundaries the real 22604  
property is situated, or, in the case of personal property, to a 22605  
school district library whose boundaries lie in whole or in part 22606  
within the school district of the selling board of education. 22607

(D) When a board of education decides to trade as a part or 22608  
an entire consideration, an item of personal property on the 22609  
purchase price of an item of similar personal property, it may 22610  
trade the same upon such terms as are agreed upon by the parties 22611  
to the trade. 22612

(E) The president and the treasurer of the board of education 22613  
shall execute and deliver deeds or other necessary instruments of 22614  
conveyance to complete any sale or trade under this section. 22615

(F) When a board of education has identified a parcel of real 22616  
property that it determines is needed for school purposes, the 22617  
board may, upon a majority vote of the members of the board, 22618  
acquire that property by exchanging real property that the board 22619  
owns in its corporate capacity for the identified real property or 22620  
by using real property that the board owns in its corporate 22621  
capacity as part or an entire consideration for the purchase price 22622  
of the identified real property. Any exchange or acquisition made 22623  
pursuant to this division shall be made by a conveyance executed 22624  
by the president and the treasurer of the board. 22625

(G)(1) When a school district board of education decides to 22626  
dispose of real property suitable for use as classroom space, 22627  
prior to disposing of such property under division (A) through (F) 22628  
of this section, it shall first offer that property for sale to 22629  
the governing authorities of the start-up community schools, 22630  
established under Chapter 3314. of the Revised Code and located 22631  
within the territory of the school district, at a price that is 22632  
not higher than the appraised fair market value of that property. 22633  
If more than one community school governing authority accepts the 22634

offer made by the school district board, the board shall sell the 22635  
property to the governing authority that accepted the offer first 22636  
in time. If no community school governing authority accepts the 22637  
offer within sixty days after the offer is made by the school 22638  
district board, the board may dispose of the property in the 22639  
applicable manner prescribed under divisions (A) to (F) of this 22640  
section. 22641

(2) If disposal of real property is planned as a part of a 22642  
school district project under Chapter 3318. of the Revised Code, 22643  
the Ohio school facilities commission shall not release any state 22644  
funds to a school district until the district has complied with 22645  
the provisions of division (G)(1) of this section, except for 22646  
funds specified for demolition of a facility to clear a site for 22647  
construction of a replacement facility included in the district's 22648  
project. 22649

**Sec. 3313.843.** (A) Notwithstanding division (D) of section 22650  
3311.52 of the Revised Code, this section does not apply to either 22651  
of the following: 22652

(1) Any cooperative education school district; 22653

(2) Any city or exempted village school district with a total 22654  
student count of thirteen thousand or more determined pursuant to 22655  
section 3317.03 of the Revised Code that has not entered into one 22656  
or more agreements pursuant to this section prior to July 1, 1993, 22657  
unless the district's total student count did not exceed thirteen 22658  
thousand at the time it entered into an initial agreement under 22659  
this section. 22660

(B) The board of education of a city or exempted village 22661  
school district and the governing board of an educational service 22662  
center with territory in a county in which the city or exempted 22663  
village school district also has territory may enter into an 22664  
agreement, through adoption of identical resolutions, under which 22665

the educational service center governing board will provide 22666  
services to the city or exempted village school district. 22667

Services provided under the agreement shall be specified in 22668  
the agreement, and may include any one or a combination of the 22669  
following: supervisory teachers; in-service and continuing 22670  
education programs for city or exempted village school district 22671  
personnel; curriculum services as provided to the local school 22672  
districts under the supervision of the service center governing 22673  
board; research and development programs; academic instruction for 22674  
which the governing board employs teachers pursuant to section 22675  
3319.02 of the Revised Code; and assistance in the provision of 22676  
special accommodations and classes for handicapped students. 22677  
Services included in the agreement shall be provided to the city 22678  
or exempted village district in the same manner they are provided 22679  
to local school districts under the governing board's supervision, 22680  
unless otherwise specified in the agreement. The city or exempted 22681  
village board of education shall reimburse the educational service 22682  
center governing board pursuant to section 3317.11 of the Revised 22683  
Code. 22684

(C)(1) If an educational service center received funding 22685  
under division (B) of former section 3317.11 or division (F) of 22686  
section 3317.11 of the Revised Code for an agreement under this 22687  
section involving a city school district whose total student count 22688  
was less than thirteen thousand, the service center may continue 22689  
to receive funding under that division for such an agreement in 22690  
any subsequent year if the city district's total student count 22691  
exceeds thirteen thousand. However, only the first thirteen 22692  
thousand pupils in the formula ADM of such district shall be 22693  
included in determining the amount of the per pupil subsidy the 22694  
service center shall receive under division ~~(B)~~(F) of section 22695  
3317.11 of the Revised Code. 22696

(2) If, prior to ~~the effective date of this amendment~~ July 1, 22697

1998, an educational service center received funding under 22698  
division (B) of former section 3317.11 of the Revised Code for a 22699  
period of at least three years, for a good faith agreement under 22700  
this section involving a city school district with no territory in 22701  
the county in which the educational service center has territory, 22702  
that educational service center and that city school district may 22703  
enter into an agreement under this section, and the service center 22704  
shall receive funding under division ~~(B)~~(F) of section 3317.11 of 22705  
the Revised Code for any such agreement, notwithstanding the 22706  
territorial boundaries of the service center and the city school 22707  
district. 22708

(D) Any agreement entered into pursuant to this section shall 22709  
be valid only if a copy is filed with the department of education 22710  
by the first day of the school year for which the agreement is in 22711  
effect. 22712

**Sec. 3313.976.** (A) No private school may receive scholarship 22713  
payments from parents pursuant to section 3313.979 of the Revised 22714  
Code until the chief administrator of the private school registers 22715  
the school with the superintendent of public instruction. The 22716  
state superintendent shall register any school that meets the 22717  
following requirements: 22718

(1) The school is located within the boundaries of the pilot 22719  
project school district; 22720

(2) The school indicates in writing its commitment to follow 22721  
all requirements for a state-sponsored scholarship program 22722  
specified under sections 3313.974 to 3313.979 of the Revised Code, 22723  
including, but not limited to, the requirements for admitting 22724  
students pursuant to section 3313.977 of the Revised Code; 22725

(3) The school meets all state minimum standards for 22726  
chartered nonpublic schools in effect on July 1, 1992, except that 22727  
the state superintendent at the superintendent's discretion may 22728

register nonchartered nonpublic schools meeting the other 22729  
requirements of this division; 22730

(4) The school does not discriminate on the basis of race, 22731  
religion, or ethnic background; 22732

(5) The school enrolls a minimum of ten students per class or 22733  
a sum of at least twenty-five students in all the classes offered; 22734

(6) The school does not advocate or foster unlawful behavior 22735  
or teach hatred of any person or group on the basis of race, 22736  
ethnicity, national origin, or religion; 22737

(7) The school does not provide false or misleading 22738  
information about the school to parents, students, or the general 22739  
public; 22740

(8) The school agrees not to charge any tuition to low-income 22741  
families ~~participating in receiving ninety per cent of the~~ 22742  
scholarship amount through the scholarship program, pursuant to 22743  
division (A) of section 3313.978 of the Revised Code, in excess of 22744  
ten per cent of the scholarship amount established pursuant to 22745  
division (C)(1) of section 3313.978 of the Revised Code, excluding 22746  
any increase described in division (C)(2) of that section. The 22747  
school shall permit any such tuition, at the discretion of the 22748  
parent, to be satisfied by the low-income family's provision of 22749  
in-kind contributions or services. 22750

(9) The school agrees not to charge any tuition to low-income 22751  
families receiving a seventy-five per cent scholarship amount 22752  
through the scholarship program, pursuant to division (A) of 22753  
section 3313.978 of the Revised Code, in excess of the difference 22754  
between the actual tuition charge of the school and seventy-five 22755  
per cent of the scholarship amount established pursuant to 22756  
division (C)(1) of section 3313.978 of the Revised Code, excluding 22757  
any increase described in division (C)(2) of that section. The 22758  
school shall permit such tuition, at the discretion of the parent, 22759

to be satisfied by the low-income family's provision of in-kind 22760  
contributions or services. 22761

(B) The state superintendent shall revoke the registration of 22762  
any school if, after a hearing, the superintendent determines that 22763  
the school is in violation of any of the provisions of division 22764  
(A) of this section. 22765

(C) Any public school located in a school district adjacent 22766  
to the pilot project district may receive scholarship payments on 22767  
behalf of parents pursuant to section 3313.979 of the Revised Code 22768  
if the superintendent of the district in which such public school 22769  
is located notifies the state superintendent prior to the first 22770  
day of March that the district intends to admit students from the 22771  
pilot project district for the ensuing school year pursuant to 22772  
section 3327.06 of the Revised Code. 22773

(D) Any parent wishing to purchase tutorial assistance from 22774  
any person or governmental entity pursuant to the pilot project 22775  
program under sections 3313.974 to 3313.979 of the Revised Code 22776  
shall apply to the state superintendent. The state superintendent 22777  
shall approve providers who appear to possess the capability of 22778  
furnishing the instructional services they are offering to 22779  
provide. 22780

**Sec. 3313.978.** (A) Annually by the first day of November, the 22781  
superintendent of public instruction shall notify the pilot 22782  
project school district of the number of initial scholarships that 22783  
the state superintendent will be awarding in each of grades 22784  
kindergarten through third. 22785

The state superintendent shall provide information about the 22786  
scholarship program to all students residing in the district, 22787  
shall accept applications from any such students until such date 22788  
as shall be established by the state superintendent as a deadline 22789  
for applications, and shall establish criteria for the selection 22790

of students to receive scholarships from among all those applying 22791  
prior to the deadline, which criteria shall give preference to 22792  
students from low-income families. For each student selected, the 22793  
state superintendent shall also determine whether the student 22794  
qualifies for seventy-five or ninety per cent of the scholarship 22795  
amount. Students whose family income is at or above two hundred 22796  
per cent of the maximum income level established by the state 22797  
superintendent for low-income families shall qualify for 22798  
seventy-five per cent of the scholarship amount and students whose 22799  
family income is below two hundred per cent of that maximum income 22800  
level shall qualify for ninety per cent of the scholarship amount. 22801  
The state superintendent shall notify students of their selection 22802  
prior to the fifteenth day of January and whether they qualify for 22803  
seventy-five or ninety per cent of the scholarship amount. 22804

(1) A student receiving a pilot project scholarship may 22805  
utilize it at an alternative public school by notifying the 22806  
district superintendent, at any time before the beginning of the 22807  
school year, of the name of the public school in an adjacent 22808  
school district to which the student has been accepted pursuant to 22809  
section 3327.06 of the Revised Code. 22810

(2) A student may decide to utilize a pilot project 22811  
scholarship at a registered private school in the district if all 22812  
of the following conditions are met: 22813

(a) By the fifteenth day of February of the preceding school 22814  
year, or at any time prior to the start of the school year, the 22815  
parent makes an application on behalf of the student to a 22816  
registered private school. 22817

(b) The registered private school notifies the parent and the 22818  
state superintendent as follows that the student has been 22819  
admitted: 22820

(i) By the fifteenth day of March of the preceding school 22821

year if the student filed an application by the fifteenth day of 22822  
February and was admitted by the school pursuant to division (A) 22823  
of section 3313.977 of the Revised Code; 22824

(ii) Within one week of the decision to admit the student if 22825  
the student is admitted pursuant to division (C) of section 22826  
3313.977 of the Revised Code. 22827

(c) The student actually enrolls in the registered private 22828  
school to which the student was first admitted or in another 22829  
registered private school in the district or in a public school in 22830  
an adjacent school district. 22831

(B) The state superintendent shall also award in any school 22832  
year tutorial assistance grants to a number of students equal to 22833  
the number of students who receive scholarships under division (A) 22834  
of this section. Tutorial assistance grants shall be awarded 22835  
solely to students who are enrolled in the public schools of the 22836  
district in a grade level covered by the pilot project. Tutorial 22837  
assistance grants may be used solely to obtain tutorial assistance 22838  
from a provider approved pursuant to division (D) of section 22839  
3313.976 of the Revised Code. 22840

All students wishing to obtain tutorial assistance grants 22841  
shall make application to the state superintendent by the first 22842  
day of the school year in which the assistance will be used. The 22843  
state superintendent shall award assistance grants in accordance 22844  
with criteria the superintendent shall establish. For each student 22845  
awarded a grant, the state superintendent shall also determine 22846  
whether the student qualifies for seventy-five or ninety per cent 22847  
of the grant amount and so notify the student. Students whose 22848  
family income is at or above two hundred per cent of the maximum 22849  
income level established by the state superintendent for 22850  
low-income families shall qualify for seventy-five per cent of the 22851  
grant amount and students whose family income is below two hundred 22852  
per cent of that maximum income level shall qualify for ninety per 22853

cent of the grant amount. 22854

(C)(1) In the case of basic scholarships, the scholarship 22855  
amount shall not exceed the lesser of the tuition charges of the 22856  
alternative school the scholarship recipient attends or an amount 22857  
established by the state superintendent not in excess of 22858  
~~twenty-five hundred~~ three thousand dollars. 22859

(2) The state superintendent shall provide for an increase in 22860  
the basic scholarship amount in the case of any student who is a 22861  
mainstreamed handicapped student and shall further increase such 22862  
amount in the case of any separately educated handicapped child. 22863  
Such increases shall take into account the instruction, related 22864  
services, and transportation costs of educating such students. 22865

(3) In the case of tutorial assistance grants, the grant 22866  
amount shall not exceed the lesser of the provider's actual 22867  
charges for such assistance or a percentage established by the 22868  
state superintendent, not to exceed twenty per cent, of the amount 22869  
of the pilot project school district's average basic scholarship 22870  
amount. 22871

(4) No scholarship or tutorial assistance grant shall be 22872  
awarded unless the state superintendent determines that 22873  
twenty-five or ten per cent, as applicable, of the amount 22874  
specified for such scholarship or grant pursuant to division 22875  
(C)(1), (2), or (3) of this section will be furnished by a 22876  
political subdivision, a private nonprofit or for profit entity, 22877  
or another person. Only seventy-five or ninety per cent of such 22878  
amounts, as applicable, shall be paid from state funds pursuant to 22879  
section 3313.979 of the Revised Code. 22880

(D)(1) Annually by the first day of November, the state 22881  
superintendent shall estimate the maximum per-pupil scholarship 22882  
amounts for the ensuing school year. The state superintendent 22883  
shall make this estimate available to the general public at the 22884

offices of the district board of education together with the forms 22885  
required by division (D)(2) of this section. 22886

(2) Annually by the fifteenth day of January, the chief 22887  
administrator of each registered private school located in the 22888  
pilot project district and the principal of each public school in 22889  
such district shall complete a parental information form and 22890  
forward it to the president of the board of education. The 22891  
parental information form shall be prescribed by the department of 22892  
education and shall provide information about the grade levels 22893  
offered, the numbers of students, tuition amounts, achievement 22894  
test results, and any sectarian or other organizational 22895  
affiliations. 22896

**Sec. 3313.979.** Each scholarship ~~or grant~~ to be used for 22897  
payments to a registered private school ~~or to an approved tutorial~~ 22898  
~~assistance provider~~ is payable to the parents of the student 22899  
entitled to the scholarship ~~or grant~~. Each scholarship to be used 22900  
for payments to a public school in an adjacent school district is 22901  
payable to the school district of attendance by the superintendent 22902  
of public instruction. Each grant to be used for payments to an 22903  
approved tutorial assistance provider is payable to the approved 22904  
tutorial assistance provider. 22905

(A)(1) By the fifteenth day of each month of the school year 22906  
that any scholarship students are enrolled in a registered private 22907  
school, the chief administrator of that school shall notify the 22908  
state superintendent of: 22909

(a) The number of students who were reported to the school 22910  
district as having been admitted by that private school pursuant 22911  
to division (A)(2)(b) of section 3313.978 of the Revised Code and 22912  
who were still enrolled in the private school as of the first day 22913  
of such month, and the numbers of such students who qualify for 22914  
seventy-five and ninety per cent of the scholarship amount; 22915

(b) The number of students who were reported to the school 22916  
district as having been admitted by another private school 22917  
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 22918  
Code and since the date of admission have transferred to the 22919  
school providing the notification under division (A)(1) of this 22920  
section, and the numbers of such students who qualify for 22921  
seventy-five and ninety per cent of the scholarship amount. 22922

(2) From time to time, the state superintendent shall make a 22923  
payment to the parent of each student entitled to a scholarship. 22924  
Each payment shall include for each student reported under 22925  
division (A)(1) of this section, a portion of seventy-five or 22926  
ninety per cent, as applicable, of the scholarship amount 22927  
specified in divisions (C)(1) and (2) of section 3313.978 of the 22928  
Revised Code. This amount shall be proportionately reduced in the 22929  
case of any such student who is not enrolled in a registered 22930  
private school for the entire school year. 22931

(3) The first payment under this division shall be made by 22932  
the last day of November and shall equal one-third of seventy-five 22933  
or ninety per cent, as applicable, of the estimated total amount 22934  
that will be due to the parent for the school year pursuant to 22935  
division (A)(2) of this section. 22936

(B) The state superintendent, on behalf of the parents of a 22937  
scholarship student enrolled in a public school in an adjacent 22938  
school district pursuant to section 3327.06 of the Revised Code, 22939  
shall make the tuition payments required by that section to the 22940  
school district admitting the student, except that, 22941  
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 22942  
Revised Code, the total payments in any school year shall not 22943  
exceed seventy-five or ninety per cent, as applicable, of the 22944  
scholarship amount provided in divisions (C)(1) and (2) of section 22945  
3313.978 of the Revised Code. 22946

(C) Whenever an approved provider provides tutorial assistance to a student, the state superintendent shall pay the ~~parent~~ approved provider for such costs upon receipt of a statement ~~from the parent~~ specifying the services provided and the costs of the services, which statement shall be signed by the provider and verified by the chief administrator having supervisory control over the tutoring site. The total payments to any ~~parent~~ approved provider under this division for all provider services to any individual student in any school year shall not exceed seventy-five or ninety per cent, as applicable, of the grant amount provided in division (C)(3) of section 3313.978 of the Revised Code.

**Sec. 3313.981.** (A) The state board shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district 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 22977  
division (B) of that section; 22978

(d) Each native student's date of enrollment in an adjacent 22979  
or other district. 22980

(2) The board of education of each joint vocational school 22981  
district to annually report to the department all of the 22982  
following: 22983

(a) The number of adjacent district or other district joint 22984  
vocational students, as applicable, enrolled in the district; 22985

(b) The full-time equivalent number of adjacent district or 22986  
other district joint vocational students enrolled in vocational 22987  
education programs or classes described in division (A) of section 22988  
3317.014 of the Revised Code and the full-time equivalent number 22989  
of such students enrolled in vocational education programs or 22990  
classes described in division (B) of that section; 22991

(c) For each adjacent district or other district joint 22992  
vocational student, the city, exempted village, or local school 22993  
district in which the student is also enrolled. 22994

(3) Prior to the first full school week in October each year, 22995  
the superintendent of each city, local, or exempted village school 22996  
district that admits adjacent district or other district students 22997  
or adjacent district or other district joint vocational students 22998  
in accordance with a policy adopted under division (B) of section 22999  
3313.98 of the Revised Code to notify each adjacent or other 23000  
district where those students are entitled to attend school under 23001  
section 3313.64 or 3313.65 of the Revised Code of the number of 23002  
the adjacent or other district's native students who are enrolled 23003  
in the superintendent's district under the policy. 23004

The rules shall provide for the method of counting students 23005  
who are enrolled for part of a school year in an adjacent or other 23006  
district or as an adjacent district or other district joint 23007

vocational student. 23008

(B) From the payments made to a city, exempted village, or 23009  
local school district under Chapter 3317. of the Revised Code, the 23010  
department of education shall annually subtract both of the 23011  
following: 23012

(1) An amount equal to the number of the district's native 23013  
students reported under division (A)(1) of this section who are 23014  
enrolled in adjacent or other school districts pursuant to 23015  
policies adopted by such districts under division (B) of section 23016  
3313.98 of the Revised Code multiplied by the adjusted formula 23017  
amount for the district; 23018

(2) The excess costs computed in accordance with division (E) 23019  
of this section for any such native students receiving special 23020  
education and related services in adjacent or other school 23021  
districts or as an adjacent district or other district joint 23022  
vocational student; 23023

(3) For the full-time equivalent number of the district's 23024  
native students reported under division (A)(1)(c) or (2)(b) of 23025  
this section as enrolled in vocational education programs or 23026  
classes described in section 3317.014 of the Revised Code, an 23027  
amount equal to the formula amount times the applicable multiple 23028  
prescribed by that section. 23029

(C) To the payments made to a city, exempted village, or 23030  
local school district under Chapter 3317. of the Revised Code, the 23031  
department of education shall annually add all of the following: 23032

(1) An amount equal to the adjusted formula amount for the 23033  
district multiplied by the remainder obtained by subtracting the 23034  
number of adjacent district or other district joint vocational 23035  
students from the number of adjacent district or other district 23036  
students enrolled in the district, as reported under division 23037  
(A)(1) of this section; 23038

(2) The excess costs computed in accordance with division (E) 23039  
of this section for any adjacent district or other district 23040  
students, except for any adjacent or other district joint 23041  
vocational students, receiving special education and related 23042  
services in the district; 23043

(3) For the full-time equivalent number of the adjacent or 23044  
other district students who are not adjacent district or other 23045  
district joint vocational students and are reported under division 23046  
(A)(1)(c) of this section as enrolled in vocational education 23047  
programs or classes described in section 3317.014 of the Revised 23048  
Code, an amount equal to the formula amount times the applicable 23049  
multiple prescribed by that section; 23050

(4) An amount equal to the number of adjacent district or 23051  
other district joint vocational students reported under division 23052  
(A)(1) of this section multiplied by an amount equal to ~~one-fourth~~ 23053  
ten per cent of the adjusted formula amount for the district. 23054

(D) To the payments made to a joint vocational school 23055  
district under Chapter 3317. of the Revised Code, the department 23056  
of education shall add, for each adjacent district or other 23057  
district joint vocational student reported under division (A)(2) 23058  
of this section, both of the following: 23059

(1) An amount equal to the adjusted formula amount of the 23060  
city, exempted village, or local school district in which the 23061  
student is also enrolled; 23062

(2) An amount equal to the full-time equivalent number of 23063  
students reported pursuant to division (A)(2)(b) of this section 23064  
times the formula amount times the applicable multiple prescribed 23065  
by section 3317.014 of the Revised Code. 23066

(E)(1) A city, exempted village, or local school board 23067  
providing special education and related services to an adjacent or 23068  
other district student in accordance with an IEP shall, pursuant 23069

to rules of the state board, compute the excess costs to educate 23070  
such student as follows: 23071

(a) Subtract the adjusted formula amount for the district 23072  
from the actual costs to educate the student; 23073

(b) From the amount computed under division (E)(1)(a) of this 23074  
section subtract the amount of any funds received by the district 23075  
under Chapter 3317. of the Revised Code to provide special 23076  
education and related services to the student. 23077

(2) The board shall report the excess costs computed under 23078  
this division to the department of education. 23079

(3) If any student for whom excess costs are computed under 23080  
division (E)(1) of this section is an adjacent or other district 23081  
joint vocational student, the department of education shall add 23082  
the amount of such excess costs to the payments made under Chapter 23083  
3317. of the Revised Code to the joint vocational school district 23084  
enrolling the student. 23085

(F) As provided in division (D)(1)(b) of section 3317.03 of 23086  
the Revised Code, no joint vocational school district shall count 23087  
any adjacent or other district joint vocational student enrolled 23088  
in the district in its formula ADM certified under section 3317.03 23089  
of the Revised Code. 23090

(G) No city, exempted village, or local school district shall 23091  
receive a payment under division (C) of this section for a 23092  
student, and no joint vocational school district shall receive a 23093  
payment under division (D) of this section for a student, if for 23094  
the same school year that student is counted in the district's 23095  
formula ADM certified under section 3317.03 of the Revised Code. 23096

(H) Upon request of a parent, and provided the board offers 23097  
transportation to native students of the same grade level and 23098  
distance from school under section 3327.01 of the Revised Code, a 23099  
city, exempted village, or local school board enrolling an 23100

adjacent or other district student shall provide transportation 23101  
for the student within the boundaries of the board's district, 23102  
except that the board shall be required to pick up and drop off a 23103  
nonhandicapped student only at a regular school bus stop 23104  
designated in accordance with the board's transportation policy. 23105  
Pursuant to rules of the state board of education, such board may 23106  
reimburse the parent from funds received under division (D) of 23107  
section 3317.022 of the Revised Code for the reasonable cost of 23108  
transportation from the student's home to the designated school 23109  
bus stop if the student's family has an income below the federal 23110  
poverty line. 23111

**Sec. 3314.02.** (A) As used in this chapter: 23112

(1) "Sponsor" means an entity listed in division (C)(1) of 23113  
this section, which has been approved by the department of 23114  
education to sponsor community schools and with which the 23115  
governing authority of the proposed community school enters into a 23116  
contract pursuant to this section. 23117

(2) "Pilot project area" means the school districts included 23118  
in the territory of the former community school pilot project 23119  
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 23120  
the 122nd general assembly. 23121

(3) "Challenged school district" means any of the following: 23122

(a) A school district that is part of the pilot project area; 23123

(b) A school district that is either in a state of academic 23124  
emergency or in a state of academic watch under section 3302.03 of 23125  
the Revised Code; 23126

(c) A big eight school district; 23127

~~(d) An urban school district.~~ 23128

(4) "Big eight school district" means a school district that 23129  
for fiscal year 1997 had both of the following: 23130

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(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 23162  
governing authority for the school, and negotiate a contract with 23163  
the board of education. Provided the proposing person or group 23164  
adheres to the preliminary agreement and all provisions of this 23165  
chapter, the board of education shall negotiate in good faith to 23166  
enter into a contract in accordance with section 3314.03 of the 23167  
Revised Code and division (C) of this section. 23168

(C)(1) Any person or group of individuals may propose under 23169  
this division the establishment of a new start-up school to be 23170  
located in a challenged school district. The proposal may be made 23171  
to any of the following entities: 23172

(a) The board of education of the district in which the 23173  
school is proposed to be located; 23174

(b) The board of education of any joint vocational school 23175  
district with territory in the county in which is located the 23176  
majority of the territory of the district in which the school is 23177  
proposed to be located; 23178

(c) The board of education of any other city, local, or 23179  
exempted village school district having territory in the same 23180  
county where the district in which the school is proposed to be 23181  
located has the major portion of its territory; 23182

(d) The governing board of any educational service center as 23183  
long as the proposed school will be located in a county within the 23184  
territory of the service center or in a county contiguous to such 23185  
county; 23186

(e) A sponsoring authority designated by the board of 23187  
trustees of any of the thirteen state universities listed in 23188  
section 3345.011 of the Revised Code or the board of trustees 23189  
itself as long as a mission of the proposed school to be specified 23190  
in the contract under division (A)(2) of section 3314.03 of the 23191  
Revised Code and as approved by the department of education under 23192

division (B)(2) of section 3314.015 of the Revised Code will be 23193  
the practical demonstration of teaching methods, educational 23194  
technology, or other teaching practices that are included in the 23195  
curriculum of the university's teacher preparation program 23196  
approved by the state board of education; 23197

(f) Any qualified tax-exempt entity under section 501(c)(3) 23198  
of the Internal Revenue Code as long as all of the following 23199  
conditions are satisfied: 23200

(i) The entity has been in operation for at least five years 23201  
prior to applying to be a community school sponsor. 23202

(ii) The entity has assets of at least five hundred thousand 23203  
dollars. 23204

(iii) The department of education has determined that the 23205  
entity is an education-oriented entity under division (B)(3) of 23206  
section 3314.015 of the Revised Code. 23207

Until July 1, 2005, any entity described in division 23208  
(C)(1)(f) of this section may sponsor only schools that formerly 23209  
were sponsored by the state board of education under division 23210  
(C)(1)(d) of this section, as it existed prior to April 8, 2003. 23211  
After July 1, 2005, such entity may sponsor any new or existing 23212  
school. 23213

Any entity described in division (C)(1) of this section may 23214  
enter into a preliminary agreement pursuant to division (C)(2) of 23215  
this section with the proposing person or group. 23216

(2) A preliminary agreement indicates the intention of an 23217  
entity described in division (C)(1) of this section to sponsor the 23218  
community school. A proposing person or group that has such a 23219  
preliminary agreement may proceed to finalize plans for the 23220  
school, establish a governing authority as described in division 23221  
(E) of this section for the school, and negotiate a contract with 23222  
the entity. Provided the proposing person or group adheres to the 23223

preliminary agreement and all provisions of this chapter, the 23224  
entity shall negotiate in good faith to enter into a contract in 23225  
accordance with section 3314.03 of the Revised Code. 23226

(3) A new start-up school that is established in a school 23227  
district while that district is either in a state of academic 23228  
emergency or in a state of academic watch under section 3302.03 of 23229  
the Revised Code may continue in existence once the school 23230  
district is no longer in a state of academic emergency or academic 23231  
watch, provided there is a valid contract between the school and a 23232  
sponsor. 23233

(4) A copy of every preliminary agreement entered into under 23234  
this division shall be filed with the superintendent of public 23235  
instruction. 23236

(D) A majority vote of the board of a sponsoring entity and a 23237  
majority vote of the members of the governing authority of a 23238  
community school shall be required to adopt a contract and convert 23239  
the public school to a community school or establish the new 23240  
start-up school. Up to the statewide limit prescribed in section 23241  
3314.013 of the Revised Code, an unlimited number of community 23242  
schools may be established in any school district provided that a 23243  
contract is entered into for each community school pursuant to 23244  
this chapter. 23245

(E) As used in this division, "immediate relatives" are 23246  
limited to spouses, children, parents, grandparents, siblings, and 23247  
in-laws. 23248

Each new start-up community school established under this 23249  
chapter shall be under the direction of a governing authority 23250  
which shall consist of a board of not less than five individuals 23251  
who are not owners or employees, or immediate relatives of owners 23252  
or employees, of any for-profit firm that operates or manages a 23253  
school for the governing authority. 23254

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(F) Nothing in this chapter shall be construed to permit the establishment of a community school in more than one school district under the same contract.

(G) A new start-up school that is established prior to the effective date of this amendment in an urban school district that is not also a big-eight school district may continue to operate after the effective date of this amendment and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after the effective date of this amendment, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after the effective date of this amendment.

**Sec. 3314.033.** (A) Not later than ninety days after the effective date of this section, the state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards governing the operation of internet- or computer-based community schools, as defined in section 3314.02 of the Revised Code, and other educational courses delivered primarily via electronic media.

(B) Each internet- or computer-based community school in operation on or after the effective date of this section shall comply with the standards adopted by the state board under division (A) of this section regardless of whether the school's contract with its sponsor contains a stipulation requiring such compliance.

**Sec. 3314.041.** The governing authority of each community 23286  
school and any operator of such school shall ~~place in a~~ 23287  
~~conspicuous manner in all documents that are distributed~~ 23288  
distribute to parents of students of the school ~~or to the general~~ 23289  
~~public~~ upon their enrollment in the school the following statement 23290  
in writing: 23291

"The ..... (here fill in name of the school) school 23292  
is a community school established under Chapter 3314. of the 23293  
Revised Code. The school is a public school and students enrolled 23294  
in and attending the school are required to take proficiency tests 23295  
and other examinations prescribed by law. In addition, there may 23296  
be other requirements for students at the school that are 23297  
prescribed by law. Students who have been excused from the 23298  
compulsory attendance law for the purpose of home education as 23299  
defined by the Administrative Code shall no longer be excused for 23300  
that purpose upon their enrollment in a community school. For more 23301  
information about this matter contact the school administration or 23302  
the Ohio Department of Education." 23303

**Sec. 3314.07.** (A) The expiration of the contract for a 23304  
community school between a sponsor and a school shall be the date 23305  
provided in the contract. A successor contract may be entered into 23306  
pursuant to division (E) of section 3314.03 of the Revised Code 23307  
unless the contract is terminated or not renewed pursuant to this 23308  
section. 23309

(B)(1) A sponsor may choose not to renew a contract at its 23310  
expiration or may choose to terminate a contract prior to its 23311  
expiration for any of the following reasons: 23312

(a) Failure to meet student performance requirements stated 23313  
in the contract; 23314

(b) Failure to meet generally accepted standards of fiscal 23315

management;	23316
(c) Violation of any provision of the contract or applicable state or federal law;	23317 23318
(d) Other good cause.	23319
(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.	23320 23321 23322
(3) At least ninety days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within seventy days of the receipt of a request for the hearing. Promptly following the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.	23323 23324 23325 23326 23327 23328 23329 23330 23331 23332 23333 23334
(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.	23335 23336 23337 23338 23339
(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:	23340 23341 23342
(a) Ninety days following the date the sponsor notifies the school of its decision to terminate the contract as prescribed in division (B)(3) of this section;	23343 23344 23345

(b) If an informal hearing is requested under division (B)(3) 23346  
of this section and as a result of that hearing the sponsor 23347  
affirms its decision to terminate the contract, the effective date 23348  
of the termination specified in the notice issued under division 23349  
(B)(3) of this section, or if that decision is appealed to the 23350  
state board under division (B)(4) of this section and the state 23351  
board affirms that decision, the date established in the 23352  
resolution of the state board affirming the sponsor's decision. 23353

(6) Any community school whose contract is terminated under 23354  
this division shall not enter into a contract with any other 23355  
sponsor. 23356

(C) A child attending a community school whose contract has 23357  
been terminated, nonrenewed, or suspended or that closes for any 23358  
reason shall be admitted to the schools of the district in which 23359  
the child is entitled to attend under section 3313.64 or 3313.65 23360  
of the Revised Code. Any deadlines established for the purpose of 23361  
admitting students under section 3313.97 or 3313.98 of the Revised 23362  
Code shall be waived for students to whom this division pertains. 23363

(D) If a community school does not intend to renew a contract 23364  
with its sponsor, the community school shall notify its sponsor in 23365  
writing of that fact at least one hundred eighty days prior to the 23366  
expiration of the contract. Such a community school may enter into 23367  
a contract with a new sponsor in accordance with section 3314.03 23368  
of the Revised Code upon the expiration of the previous contract. 23369

(E) A sponsor of a community school and the officers, 23370  
directors, or employees of such a sponsor are not liable in 23371  
damages in a tort or other civil action for harm allegedly arising 23372  
from either of the following: 23373

(1) A failure of the community school or any of its officers, 23374  
directors, or employees to perform any statutory or common law 23375  
duty or responsibility or any other legal obligation; 23376

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.	23377 23378
<del>(E)</del> (F) As used in this section:	23379
(1) "Harm" means injury, death, or loss to person or property.	23380 23381
(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.	23382 23383 23384 23385
<b>Sec. 3314.08.</b> (A) As used in this section:	23386
(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	23387 23388 23389
(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.	23390 23391
(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.	23392 23393
(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.	23394 23395 23396
(5) "Applicable vocational education weight" means:	23397
(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;	23398 23399 23400
(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.	23401 23402 23403
(6) "Entitled to attend school" means entitled to attend	23404

school in a district under section 3313.64 or 3313.65 of the Revised Code. 23405  
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(7) A community school student is "included in the DPIA student count" of a school district if the student is entitled to attend school in the district and: 23407  
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(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program. 23410  
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(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. 23412  
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(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. 23417  
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(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code. 23423  
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(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. 23425  
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(B) The state board of education shall adopt rules requiring both of the following: 23434  
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(1) The board of education of each city, exempted village, 23436  
and local school district to annually report the number of 23437  
students entitled to attend school in the district who are 23438  
enrolled in grades one through twelve in a community school 23439  
established under this chapter, the number of students entitled to 23440  
attend school in the district who are enrolled in kindergarten in 23441  
a community school, the number of those kindergartners who are 23442  
enrolled in all-day kindergarten in their community school, and 23443  
for each child, the community school in which the child is 23444  
enrolled. 23445

(2) The governing authority of each community school 23446  
established under this chapter to annually report all of the 23447  
following: 23448

(a) The number of students enrolled in grades one through 23449  
twelve and the number of students enrolled in kindergarten in the 23450  
school who are not receiving special education and related 23451  
services pursuant to an IEP; 23452

(b) The number of enrolled students in grades one through 23453  
twelve and the number of enrolled students in kindergarten, who 23454  
are receiving special education and related services pursuant to 23455  
an IEP; 23456

(c) The number of students reported under division (B)(2)(b) 23457  
of this section receiving special education and related services 23458  
pursuant to an IEP for a handicap described in each of divisions 23459  
(A) to (F) of section 3317.013 of the Revised Code; 23460

(d) The full-time equivalent number of students reported 23461  
under divisions (B)(2)(a) and (b) of this section who are enrolled 23462  
in vocational education programs or classes described in each of 23463  
divisions (A) and (B) of section 3317.014 of the Revised Code that 23464  
are provided by the community school; 23465

(e) ~~One-fourth~~ Ten per cent of the number of students 23466

reported under divisions (B)(2)(a) and (b) of this section who are 23467  
not reported under division (B)(2)(d) of this section but who are 23468  
enrolled in vocational education programs or classes described in 23469  
each of divisions (A) and (B) of section 3317.014 of the Revised 23470  
Code at a joint vocational school district under a contract 23471  
between the community school and the joint vocational school 23472  
district and are entitled to attend school in a city, local, or 23473  
exempted village school district whose territory is part of the 23474  
territory of the joint vocational district; 23475

(f) The number of enrolled preschool handicapped students 23476  
receiving special education services in a state-funded unit; 23477

(g) The community school's base formula amount; 23478

(h) For each student, the city, exempted village, or local 23479  
school district in which the student is entitled to attend school; 23480

(i) Any DPIA reduction factor that applies to a school year. 23481

(C) From the ~~payments~~ SF-3 payment made to a city, exempted 23482  
village, or local school district ~~under Chapter 3317. of the~~ 23483  
~~Revised Code~~ and, if necessary, from the payment made to the 23484  
district under sections ~~321.14~~ 321.24 and 323.156 of the Revised 23485  
Code, the department of education shall annually subtract ~~all the~~ 23486  
sum of the following: amounts described in divisions (C)(1) to (5) 23487  
of this section. However, the aggregate amount deducted under this 23488  
division shall not exceed the sum of the district's SF-3 payment 23489  
and its payment under sections 321.24 and 323.156 of the Revised 23490  
Code. 23491

(1) An amount equal to the sum of the amounts obtained when, 23492  
for each community school where the district's students are 23493  
enrolled, the number of the district's students reported under 23494  
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 23495  
in grades one through twelve, and one-half the number of students 23496  
reported under those divisions who are enrolled in kindergarten, 23497

in that community school is multiplied by the base formula amount 23498  
of that community school as adjusted by the school district's 23499  
cost-of-doing-business factor. 23500

(2) The sum of the amounts calculated under divisions 23501  
(C)(2)(a) and (b) of this section: 23502

(a) For each of the district's students reported under 23503  
division (B)(2)(c) of this section as enrolled in a community 23504  
school in grades one through twelve and receiving special 23505  
education and related services pursuant to an IEP for a handicap 23506  
described in section 3317.013 of the Revised Code, the product of 23507  
the applicable special education weight times the community 23508  
school's base formula amount; 23509

(b) For each of the district's students reported under 23510  
division (B)(2)(c) of this section as enrolled in kindergarten in 23511  
a community school and receiving special education and related 23512  
services pursuant to an IEP for a handicap described in section 23513  
3317.013 of the Revised Code, one-half of the amount calculated as 23514  
prescribed in division (C)(2)(a) of this section. 23515

(3) For each of the district's students reported under 23516  
division (B)(2)(d) of this section for whom payment is made under 23517  
division (D)(4) of this section, the amount of that payment; 23518

(4) An amount equal to the sum of the amounts obtained when, 23519  
for each community school where the district's students are 23520  
enrolled, the number of the district's students enrolled in that 23521  
community school who are included in the district's DPIA student 23522  
count is multiplied by the per pupil amount of disadvantaged pupil 23523  
impact aid the school district receives that year pursuant to 23524  
division (B) or (C) of section 3317.029 of the Revised Code, as 23525  
adjusted by any DPIA reduction factor of that community school. If 23526  
the district receives disadvantaged pupil impact aid under 23527  
division (B) of that section, the per pupil amount of that aid is 23528

the quotient of the amount the district received under that 23529  
division divided by the district's DPIA student count, as defined 23530  
in that section. If the district receives disadvantaged pupil 23531  
impact aid under division (C) of section 3317.029 of the Revised 23532  
Code, the per pupil amount of that aid is the per pupil dollar 23533  
amount prescribed for the district in division (C)(1) or (2) of 23534  
that section. 23535

(5) An amount equal to the sum of the amounts obtained when, 23536  
for each community school where the district's students are 23537  
enrolled, the district's per pupil amount of aid received under 23538  
division (E) of section 3317.029 of the Revised Code, as adjusted 23539  
by any DPIA reduction factor of the community school, is 23540  
multiplied by the sum of the following: 23541

(a) The number of the district's students reported under 23542  
division (B)(2)(a) of this section who are enrolled in grades one 23543  
to three in that community school and who are not receiving 23544  
special education and related services pursuant to an IEP; 23545

(b) One-half of the district's students who are enrolled in 23546  
all-day or any other kindergarten class in that community school 23547  
and who are not receiving special education and related services 23548  
pursuant to an IEP; 23549

(c) One-half of the district's students who are enrolled in 23550  
all-day kindergarten in that community school and who are not 23551  
receiving special education and related services pursuant to an 23552  
IEP. 23553

The district's per pupil amount of aid under division (E) of 23554  
section 3317.029 of the Revised Code is the quotient of the amount 23555  
the district received under that division divided by the 23556  
district's kindergarten through third grade ADM, as defined in 23557  
that section. 23558

(D) The department shall annually pay to a community school 23559

established under this chapter ~~all the sum of the following:~~ 23560  
amounts described in divisions (D)(1) to (6) of this section. 23561  
However, the sum of the payments to all community schools under 23562  
divisions (D)(1), (2), (4), (5), and (6) of this section for the 23563  
students entitled to attend school in any particular school 23564  
district shall not exceed the sum of that district's SF-3 payment 23565  
and its payment under sections 321.24 and 323.156 of the Revised 23566  
Code. If the sum of the payments calculated under those divisions 23567  
for the students entitled to attend school in a particular school 23568  
district exceeds the sum of that district's SF-3 payment and its 23569  
payment under sections 321.24 and 323.156 of the Revised Code, the 23570  
department shall calculate and apply a proration factor to the 23571  
payments to all community schools under those divisions for the 23572  
students entitled to attend school in that district. 23573

(1) An amount equal to the sum of the amounts obtained when 23574  
the number of students enrolled in grades one through twelve, plus 23575  
one-half of the kindergarten students in the school, reported 23576  
under divisions (B)(2)(a), (b), and (e) of this section who are 23577  
not receiving special education and related services pursuant to 23578  
an IEP for a handicap described in section 3317.013 of the Revised 23579  
Code is multiplied by the community school's base formula amount, 23580  
as adjusted by the cost-of-doing-business factor of the school 23581  
district in which the student is entitled to attend school; 23582

(2) The greater of the following: 23583

(a) The aggregate amount that the department paid to the 23584  
community school in fiscal year 1999 for students receiving 23585  
special education and related services pursuant to IEPs, excluding 23586  
federal funds and state disadvantaged pupil impact aid funds; 23587

(b) The sum of the amounts calculated under divisions 23588  
(D)(2)(b)(i) and (ii) of this section: 23589

(i) For each student reported under division (B)(2)(c) of 23590

this section as enrolled in the school in grades one through 23591  
twelve and receiving special education and related services 23592  
pursuant to an IEP for a handicap described in section 3317.013 of 23593  
the Revised Code, the following amount: 23594  
    (the community school's base formula amount 23595  
        X the cost-of-doing-business factor 23596  
            of the district where the student 23597  
                is entitled to attend school) + 23598  
    (the applicable special education weight X 23599  
        the community school's base formula amount); 23600

(ii) For each student reported under division (B)(2)(c) of 23601  
this section as enrolled in kindergarten and receiving special 23602  
education and related services pursuant to an IEP for a handicap 23603  
described in section 3317.013 of the Revised Code, one-half of the 23604  
amount calculated under the formula prescribed in division 23605  
(D)(2)(b)(i) of this section. 23606

(3) An amount received from federal funds to provide special 23607  
education and related services to students in the community 23608  
school, as determined by the superintendent of public instruction. 23609

(4) For each student reported under division (B)(2)(d) of 23610  
this section as enrolled in vocational education programs or 23611  
classes that are described in section 3317.014 of the Revised 23612  
Code, are provided by the community school, and are comparable as 23613  
determined by the superintendent of public instruction to school 23614  
district vocational education programs and classes eligible for 23615  
state weighted funding under section 3317.014 of the Revised Code, 23616  
an amount equal to the applicable vocational education weight 23617  
times the community school's base formula amount times the 23618  
percentage of time the student spends in the vocational education 23619  
programs or classes. 23620

(5) An amount equal to the sum of the amounts obtained when, 23621  
for each school district where the community school's students are 23622

entitled to attend school, the number of that district's students 23623  
enrolled in the community school who are included in the 23624  
district's DPIA student count is multiplied by the per pupil 23625  
amount of disadvantaged pupil impact aid that school district 23626  
receives that year pursuant to division (B) or (C) of section 23627  
3317.029 of the Revised Code, as adjusted by any DPIA reduction 23628  
factor of the community school. The per pupil amount of aid shall 23629  
be determined as described in division (C)(4) of this section. 23630

(6) An amount equal to the sum of the amounts obtained when, 23631  
for each school district where the community school's students are 23632  
entitled to attend school, the district's per pupil amount of aid 23633  
received under division (E) of section 3317.029 of the Revised 23634  
Code, as adjusted by any DPIA reduction factor of the community 23635  
school, is multiplied by the sum of the following: 23636

(a) The number of the district's students reported under 23637  
division (B)(2)(a) of this section who are enrolled in grades one 23638  
to three in that community school and who are not receiving 23639  
special education and related services pursuant to an IEP; 23640

(b) One-half of the district's students who are enrolled in 23641  
all-day or any other kindergarten class in that community school 23642  
and who are not receiving special education and related services 23643  
pursuant to an IEP; 23644

(c) One-half of the district's students who are enrolled in 23645  
all-day kindergarten in that community school and who are not 23646  
receiving special education and related services pursuant to an 23647  
IEP. 23648

The district's per pupil amount of aid under division (E) of 23649  
section 3317.029 of the Revised Code shall be determined as 23650  
described in division (C)(5) of this section. 23651

(E)(1) If a community school's costs for a fiscal year for a 23652  
student receiving special education and related services pursuant 23653

to an IEP for a handicap described in divisions (B) to (F) of 23654  
section 3317.013 of the Revised Code exceed the threshold 23655  
catastrophic cost for serving the student as specified in division 23656  
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 23657  
submit to the superintendent of public instruction documentation, 23658  
as prescribed by the superintendent, of all its costs for that 23659  
student. Upon submission of documentation for a student of the 23660  
type and in the manner prescribed, the department shall pay to the 23661  
community school an amount equal to the school's costs for the 23662  
student in excess of the threshold catastrophic costs. 23663

(2) The community school shall only report under division 23664  
(E)(1) of this section, and the department shall only pay for, the 23665  
costs of educational expenses and the related services provided to 23666  
the student in accordance with the student's individualized 23667  
education program. Any legal fees, court costs, or other costs 23668  
associated with any cause of action relating to the student may 23669  
not be included in the amount. 23670

(F) A community school may apply to the department of 23671  
education for preschool handicapped or gifted unit funding the 23672  
school would receive if it were a school district. Upon request of 23673  
its governing authority, a community school that received unit 23674  
funding as a school district-operated school before it became a 23675  
community school shall retain any units awarded to it as a school 23676  
district-operated school provided the school continues to meet 23677  
eligibility standards for the unit. 23678

A community school shall be considered a school district and 23679  
its governing authority shall be considered a board of education 23680  
for the purpose of applying to any state or federal agency for 23681  
grants that a school district may receive under federal or state 23682  
law or any appropriations act of the general assembly. The 23683  
governing authority of a community school may apply to any private 23684  
entity for additional funds. 23685

(G) A board of education sponsoring a community school may 23686  
utilize local funds to make enhancement grants to the school or 23687  
may agree, either as part of the contract or separately, to 23688  
provide any specific services to the community school at no cost 23689  
to the school. 23690

(H) A community school may not levy taxes or issue bonds 23691  
secured by tax revenues. 23692

(I) No community school shall charge tuition for the 23693  
enrollment of any student. 23694

(J)(1)(a) A community school may borrow money to pay any 23695  
necessary and actual expenses of the school in anticipation of the 23696  
receipt of any portion of the payments to be received by the 23697  
school pursuant to division (D) of this section. The school may 23698  
issue notes to evidence such borrowing . The proceeds of the notes 23699  
shall be used only for the purposes for which the anticipated 23700  
receipts may be lawfully expended by the school. 23701

(b) A school may also borrow money for a term not to exceed 23702  
fifteen years for the purpose of acquiring facilities. 23703

(2) Except for any amount guaranteed under section 3318.50 of 23704  
the Revised Code, the state is not liable for debt incurred by the 23705  
governing authority of a community school. 23706

(K) For purposes of determining the number of students for 23707  
which divisions (D)(5) and (6) of this section applies in any 23708  
school year, a community school may submit to the department of 23709  
job and family services, no later than the first day of March, a 23710  
list of the students enrolled in the school. For each student on 23711  
the list, the community school shall indicate the student's name, 23712  
address, and date of birth and the school district where the 23713  
student is entitled to attend school. Upon receipt of a list under 23714  
this division, the department of job and family services shall 23715  
determine, for each school district where one or more students on 23716

the list is entitled to attend school, the number of students 23717  
residing in that school district who were included in the 23718  
department's report under section 3317.10 of the Revised Code. The 23719  
department shall make this determination on the basis of 23720  
information readily available to it. Upon making this 23721  
determination and no later than ninety days after submission of 23722  
the list by the community school, the department shall report to 23723  
the state department of education the number of students on the 23724  
list who reside in each school district who were included in the 23725  
department's report under section 3317.10 of the Revised Code. In 23726  
complying with this division, the department of job and family 23727  
services shall not report to the state department of education any 23728  
personally identifiable information on any student. 23729

(L) The department of education shall adjust the amounts 23730  
subtracted and paid under divisions (C) and (D) of this section to 23731  
reflect any enrollment of students in community schools for less 23732  
than the equivalent of a full school year. The state board of 23733  
education within ninety days after ~~the effective date of this~~ 23734  
~~amendment~~ April 8, 2003, shall adopt in accordance with Chapter 23735  
119. of the Revised Code rules governing the payments to community 23736  
schools under this section including initial payments in a school 23737  
year and adjustments and reductions made in subsequent periodic 23738  
payments to community schools and corresponding deductions from 23739  
school district accounts as provided under divisions (C) and (D) 23740  
of this section. For purposes of this section: 23741

(1) A student shall be considered enrolled in the community 23742  
school for any portion of the school year the student is 23743  
participating at a college under Chapter 3365. of the Revised 23744  
Code. 23745

(2) A student shall be considered to be enrolled in a 23746  
community school during a school year for the period of time 23747  
between the date on which the school both has received 23748

documentation of the student's enrollment from a parent and has 23749  
commenced participation in learning opportunities as defined in 23750  
the contract with the sponsor. For purposes of applying this 23751  
division to a community school student, "learning opportunities" 23752  
shall be defined in the contract, which shall describe both 23753  
classroom-based and non-classroom-based learning opportunities and 23754  
shall be in compliance with criteria and documentation 23755  
requirements for student participation which shall be established 23756  
by the department. Any student's instruction time in 23757  
non-classroom-based learning opportunities shall be certified by 23758  
an employee of the community school. A student's enrollment shall 23759  
be considered to cease on the date on which any of the following 23760  
occur: 23761

(a) The community school receives documentation from a parent 23762  
terminating enrollment of the student. 23763

(b) The community school is provided documentation of a 23764  
student's enrollment in another public or private school. 23765

(c) The community school ceases to offer learning 23766  
opportunities to the student pursuant to the terms of the contract 23767  
with the sponsor or the operation of any provision of this 23768  
chapter. 23769

(3) A student's percentage of full-time equivalency shall be 23770  
considered to be the percentage the hours of learning opportunity 23771  
offered to that student is of nine hundred and twenty hours. 23772

(M) The department of education shall reduce the amounts paid 23773  
under division (D) of this section to reflect payments made to 23774  
colleges under division (B) of section 3365.07 of the Revised 23775  
Code. 23776

(N)(1) No student shall be considered enrolled in any 23777  
internet- or computer-based community school unless ~~the~~ both of 23778  
the following conditions are satisfied: 23779

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are fully operational and the so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A)(1) or (2) of section 3314.032 of the Revised Code, relative to such student.  
~~In~~

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any internet- or computer-based community school that includes in its program the provision of computer hardware and software materials to each student, if such hardware and software materials have not been delivered, installed, and activated for all students in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such internet- or computer-based schools.

(0)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be

completed and written notice of the findings shall be provided to 23811  
the governing authority of the community school and its sponsor 23812  
within ninety days of the end of the community school's fiscal 23813  
year, unless extended for a period not to exceed thirty additional 23814  
days for one of the following reasons: 23815

(a) The department and the community school mutually agree to 23816  
the extension. 23817

(b) Delays in data submission caused by either a community 23818  
school or its sponsor. 23819

(2) If the review results in a finding that additional 23820  
funding is owed to the school, such payment shall be made within 23821  
thirty days of the written notice. If the review results in a 23822  
finding that the community school owes moneys to the state, the 23823  
following procedure shall apply: 23824

(a) Within ten business days of the receipt of the notice of 23825  
findings, the community school may appeal the department's 23826  
determination to the state board of education or its designee. 23827

(b) The board or its designee shall conduct an informal 23828  
hearing on the matter within thirty days of receipt of such an 23829  
appeal and shall issue a decision within fifteen days of the 23830  
conclusion of the hearing. 23831

(c) If the board has enlisted a designee to conduct the 23832  
hearing, the designee shall certify its decision to the board. The 23833  
board may accept the decision of the designee or may reject the 23834  
decision of the designee and issue its own decision on the matter. 23835

(d) Any decision made by the board under this division is 23836  
final. 23837

(3) If it is decided that the community school owes moneys to 23838  
the state, the department shall deduct such amount from the 23839  
school's future payments in accordance with guidelines issued by 23840

the superintendent of public instruction. 23841

Sec. 3314.083. If the department of education pays a joint 23842  
vocational school district under division (G)(4) of section 23843  
3317.16 of the Revised Code for excess costs of providing special 23844  
education and related services to a handicapped student who is 23845  
enrolled in a community school, as calculated under division 23846  
(G)(2) of that section, the department shall deduct the amount of 23847  
that payment from the amount calculated for payment to the 23848  
community school under section 3314.08 of the Revised Code. 23849

**Sec. 3314.17.** (A) Each community school established under 23850  
this chapter shall participate in the statewide education 23851  
management information system established under section 3301.0714 23852  
of the Revised Code. All provisions of that section and the rules 23853  
adopted under that section apply to each community school as if it 23854  
were a school district, except as modified for community schools 23855  
under division (B) of this section. 23856

(B) The rules adopted by the state board of education under 23857  
section 3301.0714 of the Revised Code may distinguish methods and 23858  
timelines for community schools to annually report data, which 23859  
methods and timelines differ from those prescribed for school 23860  
districts. Any methods and timelines prescribed for community 23861  
schools shall be appropriate to the academic schedule and 23862  
financing of community schools. The guidelines, however, shall not 23863  
modify the actual data required to be reported under that section. 23864

(C) Each fiscal officer appointed under section 3314.011 of 23865  
the Revised Code is responsible for annually reporting the 23866  
community school's data under section 3301.0714 of the Revised 23867  
Code. If the superintendent of public instruction determines that 23868  
a community school fiscal officer has willfully failed to report 23869  
data or has willfully reported erroneous, inaccurate, or 23870

incomplete data in any year, or has negligently reported 23871  
erroneous, inaccurate, or incomplete data in the current and any 23872  
previous year, the superintendent may impose a civil penalty of 23873  
one hundred dollars on the fiscal officer after providing the 23874  
officer with notice and an opportunity for a hearing in accordance 23875  
with Chapter 119. of the Revised Code. The superintendent's 23876  
authority to impose civil penalties under this division does not 23877  
preclude the state board of education from suspending or revoking 23878  
the license of a community school employee under division (N) of 23879  
section 3301.0714 of the Revised Code. 23880

(D) No community school shall acquire, change, or update its 23881  
student administration software package to manage and report data 23882  
required to be reported to the department unless it converts to a 23883  
student software package that is certified by the department. 23884

**Sec. 3316.031.** (A) The state superintendent of public 23885  
instruction, in consultation with the auditor of state, shall 23886  
develop guidelines for identifying fiscal practices and budgetary 23887  
conditions that, if uncorrected, could result in a future 23888  
declaration of a fiscal watch or fiscal emergency within a school 23889  
district. 23890

The guidelines shall not include a requirement that a school 23891  
district submit financial statements according to generally 23892  
accepted accounting principles. 23893

(B)(1) If the state superintendent determines from a school 23894  
district's five-year forecast submitted under section 5705.391 of 23895  
the Revised Code that a district is engaging in any of those 23896  
practices or that any of those conditions exist within the 23897  
district, after consulting with the district board of education 23898  
concerning the practices or conditions, the state superintendent 23899  
may declare the district to be under a fiscal caution. 23900

(2) If the auditor of state finds that a district is engaging 23901

in any of those practices or that any of those conditions exist 23902  
within the district, the auditor of state shall report that 23903  
finding to the state superintendent and, after consulting with the 23904  
district board of education concerning the practices or 23905  
conditions, the state superintendent may declare the district to 23906  
be under a fiscal caution. 23907

(3) Unless the auditor of state has elected to declare a 23908  
state of fiscal watch under division (A)(4) of section 3316.03 of 23909  
the Revised Code, the state superintendent shall declare a school 23910  
district to be under a fiscal caution if the conditions described 23911  
in divisions (A)(4)(a) and (b) of that section are both satisfied 23912  
with respect to the school district. 23913

(C) When the state superintendent declares a district to be 23914  
under fiscal caution, the state superintendent shall promptly 23915  
notify the district board of education of that declaration and 23916  
shall request the board to provide written proposals for 23917  
discontinuing or correcting the fiscal practices or budgetary 23918  
conditions that prompted the declaration and for preventing the 23919  
district from experiencing further fiscal difficulties that could 23920  
result in the district being declared to be in a state of fiscal 23921  
watch or fiscal emergency. 23922

(D) The state superintendent, or a designee, may visit and 23923  
inspect any district that is declared to be under a fiscal 23924  
caution. The department of education shall provide technical 23925  
assistance to the district board in implementing proposals to 23926  
eliminate the practices or budgetary conditions that prompted the 23927  
declaration of fiscal caution and may make recommendations 23928  
concerning the board's proposals. 23929

(E) If the state superintendent finds that a school district 23930  
declared to be under a fiscal caution has not made reasonable 23931  
proposals or otherwise taken action to discontinue or correct the 23932  
fiscal practices or budgetary conditions that prompted the 23933

declaration of fiscal caution, and if the state superintendent 23934  
considers it necessary to prevent further fiscal decline, the 23935  
state superintendent may determine that the district should be in 23936  
a state of fiscal watch. As provided in division (A)(3) of section 23937  
3316.03 of the Revised Code, the auditor of state shall declare 23938  
the district to be in a state of fiscal watch if the auditor of 23939  
state finds the superintendent's determination to be reasonable. 23940

**Sec. 3316.08.** During a school district's fiscal emergency 23941  
period, the auditor of state shall determine annually, or at any 23942  
other time upon request of the financial planning and supervision 23943  
commission, whether the school district will incur an operating 23944  
deficit. If the auditor of state determines that a school district 23945  
will incur an operating deficit, the auditor of state shall 23946  
certify that determination to the superintendent of public 23947  
instruction, the financial planning and supervision commission, 23948  
and the board of education of the school district. Upon receiving 23949  
the auditor of state's certification, the ~~board of education or~~ 23950  
commission shall adopt a resolution ~~to submit a ballot question~~ 23951  
~~proposing the levy of a tax requesting that the board of education~~ 23952  
~~work with the county auditor or tax commissioner to estimate the~~ 23953  
~~amount and rate of a tax levy that is needed~~ under section 23954  
5705.194 or 5705.21 or Chapter 5748. of the Revised Code to 23955  
produce a positive fund balance not later than the fifth year of 23956  
the five-year forecast submitted under section 5705.391 of the 23957  
Revised Code. ~~Except~~ 23958

The board of education shall recommend to the commission 23959  
whether the board supports or opposes a tax levy under section 23960  
5705.194 or 5705.21 or Chapter 5748. of the Revised Code and shall 23961  
provide supporting documentation to the commission of its 23962  
recommendation. 23963

After considering the board of education's recommendation and 23964

supporting documentation, the commission shall adopt a resolution 23965  
to either submit a ballot question proposing a tax levy or not to 23966  
submit such a question. 23967

Except as otherwise provided in this division, the tax shall 23968  
be levied in the manner prescribed for a tax levied under section 23969  
5705.194 or 5705.21 or under Chapter 5748. of the Revised Code. 23970  
~~The~~ If the commission decides that a tax shall should be levied, 23971  
the tax shall be levied for the purpose of paying current 23972  
operating expenses of the school district. ~~The question shall~~ 23973  
~~propose that the tax be levied at the rate required to produce~~ 23974  
~~annual revenue sufficient to eliminate the operating deficit as~~ 23975  
~~certified by the auditor of state and to repay outstanding loans~~ 23976  
~~or other obligations incurred by the board of education for the~~ 23977  
~~purpose of reducing or eliminating operating deficits, as~~ 23978  
~~determined by the financial planning and supervision commission.~~ 23979  
The rate of a tax levied under section 5705.194 or 5705.21 of the 23980  
Revised Code shall be determined by the county auditor, and the 23981  
rate of a tax levied under section 5748.02 or 5748.08 of the 23982  
Revised Code shall be determined by the tax commissioner, upon the 23983  
request of the commission. The commission, in consultation with 23984  
the board of education, shall determine the election at which the 23985  
question of the tax shall appear on the ballot, and the ~~board of~~ 23986  
~~education or~~ commission shall submit a copy of its resolution to 23987  
the board of elections not later than seventy-five days prior to 23988  
the day of that election. The board of elections conducting the 23989  
election shall certify the results of the election to the board of 23990  
education and to the financial planning and supervision 23991  
commission. 23992

**Sec. 3317.012.** (A)(1) The general assembly, having analyzed 23993  
school district expenditure and cost data for fiscal year 1999, 23994  
performed the calculation described in division (B) of this 23995  
section, adjusted the results for inflation, and added the amounts 23996

described in division (A)(2) of this section, hereby determines 23997  
that the base cost of an adequate education per pupil for the 23998  
fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ three 23999  
following fiscal years, the base cost per pupil for each of those 24000  
years, reflecting an annual rate of inflation of two and 24001  
eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088 for 24002  
fiscal year 2004, and \$5,230 for fiscal year 2005, ~~\$5,376 for~~ 24003  
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 24004

(2) The base cost per pupil amounts specified in division 24005  
(A)(1) of this section include amounts to reflect the cost to 24006  
school districts of increasing the minimum number of high school 24007  
academic units required for graduation beginning September 15, 24008  
2001, under section 3313.603 of the Revised Code. Analysis of 24009  
fiscal year 1999 data revealed that the school districts meeting 24010  
the requirements of division (B) of this section on average 24011  
required high school students to complete a minimum of nineteen 24012  
and eight-tenths units to graduate. The general assembly 24013  
determines that the cost of funding the additional two-tenths unit 24014  
required by section 3313.603 of the Revised Code is \$12 per pupil 24015  
in fiscal year 2002. This amount was added after the calculation 24016  
described in division (B) of this section and the adjustment for 24017  
inflation from fiscal year 1999 to fiscal year 2002. It is this 24018  
total amount, the calculated base cost plus the supplement to pay 24019  
for the additional partial unit, that constitutes the base cost 24020  
amount specified in division (A)(1) of this section for fiscal 24021  
year 2002 and that is inflated to produce the base cost amounts 24022  
for fiscal years 2003 through ~~2007~~ 2005. 24023

(B) In determining the base cost stated in division (A) of 24024  
this section, capital and debt costs, costs paid for by federal 24025  
funds, and costs covered by funds provided for disadvantaged pupil 24026  
impact aid and transportation were excluded, as were the effects 24027  
on the districts' state funds of the application of the 24028

cost-of-doing-business factors, assuming a seven and one-half per cent variance. 24029  
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The base cost for fiscal year 1999 was calculated as the unweighted average cost per student, on a school district basis, of educating students who were not receiving vocational education or services pursuant to Chapter 3323. of the Revised Code and who were enrolled in a city, exempted village, or local school district that in fiscal year 1999 met all of the following criteria: 24031  
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(1) The district met at least twenty of the following twenty-seven performance indicators: 24038  
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(a) A ninety per cent or higher graduation rate; 24040

(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; 24041  
24042  
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(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; 24044  
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(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; 24047  
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(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; 24050  
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(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; 24053  
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(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; 24056  
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(h) At least seventy-five per cent of sixth graders	24059
proficient on the reading test prescribed under <u>former</u> division	24060
(A)(2) of section 3301.0710 of the Revised Code;	24061
(i) At least seventy-five per cent of sixth graders	24062
proficient on the writing test prescribed under <u>former</u> division	24063
(A)(2) of section 3301.0710 of the Revised Code;	24064
(j) At least seventy-five per cent of sixth graders	24065
proficient on the citizenship test prescribed under <u>former</u>	24066
division (A)(2) of section 3301.0710 of the Revised Code;	24067
(k) At least seventy-five per cent of sixth graders	24068
proficient on the science test prescribed under <u>former</u> division	24069
(A)(2) of section 3301.0710 of the Revised Code;	24070
(l) At least seventy-five per cent of ninth graders	24071
proficient on the mathematics test prescribed under Section 4 of	24072
Am. Sub. S.B. 55 of the 122nd general assembly;	24073
(m) At least seventy-five per cent of ninth graders	24074
proficient on the reading test prescribed under Section 4 of Am.	24075
Sub. S.B. 55 of the 122nd general assembly;	24076
(n) At least seventy-five per cent of ninth graders	24077
proficient on the writing test prescribed under Section 4 of Am.	24078
Sub. S.B. 55 of the 122nd general assembly;	24079
(o) At least seventy-five per cent of ninth graders	24080
proficient on the citizenship test prescribed under Section 4 of	24081
Am. Sub. S.B. 55 of the 122nd general assembly;	24082
(p) At least seventy-five per cent of ninth graders	24083
proficient on the science test prescribed under Section 4 of Am.	24084
Sub. S.B. 55 of the 122nd general assembly;	24085
(q) At least eighty-five per cent of tenth graders proficient	24086
on the mathematics test prescribed under Section 4 of Am. Sub.	24087
S.B. 55 of the 122nd general assembly;	24088

(r) At least eighty-five per cent of tenth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	24089 24090 24091
(s) At least eighty-five per cent of tenth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	24092 24093 24094
(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;	24095 24096 24097
(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;	24098 24099 24100
(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;	24101 24102 24103
(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;	24104 24105 24106
(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;	24107 24108 24109
(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;	24110 24111 24112
(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under <u>former</u> division (A)(3) of section 3301.0710 of the Revised Code;	24113 24114 24115
(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code.	24116 24117
In determining whether a school district met any of the	24118

performance standards specified in divisions (B)(1)(a) to (aa) of 24119  
this section, the general assembly used a rounding procedure 24120  
previously recommended by the department of education. It is the 24121  
same rounding procedure the general assembly used in 1998 to 24122  
determine whether a district had met the standards of former 24123  
divisions (B)(1)(a) to (r) of this section for purposes of 24124  
constructing the previous model based on fiscal year 1996 data. 24125

(2) The district was not among the five per cent of all 24126  
districts with the highest income, nor among the five per cent of 24127  
all districts with the lowest income. 24128

(3) The district was not among the five per cent of all 24129  
districts with the highest valuation per pupil, nor among the five 24130  
per cent of all districts with the lowest valuation per pupil. 24131

This model for calculating the base cost of an adequate 24132  
education is expenditure-based. The general assembly recognizes 24133  
that increases in state funding to school districts since fiscal 24134  
year 1996, the fiscal year upon which the general assembly based 24135  
its model for calculating state funding to school districts for 24136  
fiscal years 1999 through 2001, has increased school district base 24137  
cost expenditures for fiscal year 1999, the fiscal year upon which 24138  
the general assembly based its model for calculating state funding 24139  
for fiscal years 2002 through ~~2007~~ 2005. In the case of school 24140  
districts included in the fiscal year 1999 model that also had met 24141  
the fiscal year 1996 performance criteria of former division 24142  
(B)(1) of this section, the increased state funding may have 24143  
driven the districts' expenditures beyond the expenditures that 24144  
were actually needed to maintain their educational programs at the 24145  
level necessary to maintain their ability to meet the fiscal year 24146  
1999 performance criteria of current division (B)(1) of this 24147  
section. The general assembly has determined to control for this 24148  
effect by stipulating in the later model that the fiscal year 1999 24149  
base cost expenditures of the districts that also met the 24150

performance criteria of former division (B)(1) of this section 24151  
equals their base cost expenditures per pupil for fiscal year 24152  
1996, inflated to fiscal year 1999 using an annual rate of 24153  
inflation of two and eight-tenths per cent. However, if this 24154  
inflated amount exceeded the district's actual fiscal year 1999 24155  
base cost expenditures per pupil, the district's actual fiscal 24156  
year 1999 base cost expenditures per pupil were used in the 24157  
calculation. For districts in the 1999 model that did not also 24158  
meet the performance criteria of former division (B)(1) of this 24159  
section, the actual 1999 base cost per pupil expenditures were 24160  
used in the calculation of the average district per pupil costs of 24161  
the model districts. 24162

~~(C) In July of 2005, and in July of every six years 24163  
thereafter, the speaker of the house of representatives and the 24164  
president of the senate shall each appoint three members to a 24165  
committee to reexamine the cost of an adequate education. No more 24166  
than two members from any political party shall represent each 24167  
house. The director of budget and management and the 24168  
superintendent of public instruction shall serve as nonvoting ex 24169  
officio members of the committee. 24170~~

~~The committee shall select a rational methodology for 24171  
calculating the costs of an adequate education system for the 24172  
ensuing six year period, and shall report the methodology and the 24173  
resulting costs to the general assembly. In performing its 24174  
function, the committee is not bound by any method used by 24175  
previous general assemblies to examine and calculate costs and 24176  
instead may utilize any rational method it deems suitable and 24177  
reasonable given the educational needs and requirements of the 24178  
state at that time. 24179~~

~~The methodology for determining the cost of an adequate 24180  
education system shall take into account the basic educational 24181  
costs that all districts incur in educating regular students, the 24182~~

~~unique needs of special categories of students, and significant  
special conditions encountered by certain classifications of  
school districts.~~ 24183  
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~~The committee also shall redetermine, for purposes of  
updating the parity aid calculation under section 3317.0217 of the  
Revised Code, the average number of effective operating mills that  
school districts in the seventieth to ninetieth percentiles of  
valuations per pupil collect above the revenues required to  
finance their attributed local shares of the calculated cost of an  
adequate education.~~ 24186  
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~~Any committee appointed pursuant to this section shall make  
its report to the office of budget and management and the general  
assembly within one year of its appointment so that the  
information is available for use by the office and the general  
assembly in preparing the next biennial appropriations act.~~ 24193  
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~~(D)(1) For purposes of this division, an "update year" is the  
first fiscal year for which the per pupil base cost of an adequate  
education is in effect after being recalculated by the general  
assembly. The first update year is fiscal year 2002. The second  
update year is fiscal year 2008.~~ 24198  
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~~(2) The general assembly shall recalculate the per pupil base  
cost of an adequate education every six years after considering  
the recommendations of the committee appointed under division (C)  
of this section. At the time of the recalculation, for each of the  
five fiscal years following the update year, the general assembly  
shall adjust the base cost recalculated for the update year using  
an annual rate of inflation that the general assembly determines  
appropriate.~~ 24203  
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~~(3) The general assembly shall include, in the act  
appropriating state funds for education programs for a fiscal  
biennium that begins with an update year, a statement of its~~ 24211  
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determination of the total state share percentage of base cost and parity aid funding for the update year. 24214  
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~~(4) During its biennial budget deliberations, the general assembly shall determine the total state share percentage of base cost and parity aid funding for each fiscal year of the upcoming biennium. This determination shall be based on the latest projections and data provided by the department of education under division (D)(6) of this section prior to the enactment of education appropriations for the upcoming biennium. If, based on those latest projections and data, the general assembly determines that the total state share percentage for either or both nonupdate fiscal years varies more than two and one half percentage points more or less than the total state share percentage for the most recent update year, as previously stated by the general assembly under division (D)(3) of this section, the general assembly shall determine and enact a method that it considers appropriate to restrict the estimated variance for each year to within two and one half percentage points. The general assembly's methods may include, but are not required to include and need not be limited to, reexamining the rate of millage charged off as the local share of base cost funding under divisions (A)(1) and (2) of section 3317.022 of the Revised Code. Regardless of any changes in charge off millage rates in years between update years, however, the charge off millage rate for update years shall be twenty three mills, unless the general assembly determines that a different millage rate is more appropriate to share the total calculated base cost between the state and school districts.~~ 24216  
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~~(5) The total state share percentage of base cost and parity aid funding for any fiscal year is calculated as follows:~~ 24241  
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~~{(Total state base cost + total state parity aid funding) / statewide charge off amount} / (Total state base cost + total state parity aid funding)~~ 24243  
24244  
24245

<del>Where:</del>	24246
<del>(a) The total state base cost equals the sum of the base costs for all school districts for the fiscal year.</del>	24247 24248
<del>(b) The base cost for each school district equals:</del>	24249
<del>    formula amount X cost of doing business factor X</del>	24250
<del>    the greater of formula ADM or</del>	24251
<del>    three year average formula ADM</del>	24252
<del>(c) The total state parity aid funding equals the sum of the amounts paid to all school districts for the fiscal year under section 3317.0217 of the Revised Code.</del>	24253 24254 24255
<del>(d) The statewide charge off amount equals the sum of the charge off amounts for all school districts.</del>	24256 24257
<del>(e) The charge off amount for each school district is the amount calculated as its local share of base cost funding and deducted from the total calculated base cost to determine the amount of its state payment under divisions (A)(1) and (2) of section 3317.022 of the Revised Code. The charge off amount for each school district in fiscal year 2002 is the product of twenty three mills multiplied by the district's recognized valuation as adjusted, if applicable, under division (A)(2) of section 3317.022 of the Revised Code. If however, in any fiscal year, including fiscal year 2002, a school district's calculated charge off amount exceeds its base cost calculated as described in division (D)(5)(b) of this section, the district's charge off amount shall be deemed to equal its calculated base cost.</del>	24258 24259 24260 24261 24262 24263 24264 24265 24266 24267 24268 24269 24270
<del>(6) Whenever requested by the chairperson of the standing committee of the house or representatives or the senate having primary jurisdiction over appropriations, the legislative budget officer, or the director of budget and management, the department of education shall report its latest projections for total base cost, total parity aid funding, and the statewide charge off</del>	24271 24272 24273 24274 24275 24276

~~amount, as those terms are defined in division (D)(5) of this 24277~~  
~~section, for each year of the upcoming fiscal biennium, and all 24278~~  
~~data it used to make the projections. 24279~~

**Sec. 3317.013.** This section does not apply to handicapped 24280  
preschool students. 24281

Analysis of special education cost data has resulted in a 24282  
finding that the average special education additional cost per 24283  
pupil, including the costs of related services, can be expressed 24284  
as a multiple of the base cost per pupil calculated under section 24285  
3317.012 of the Revised Code. The multiples for the following 24286  
categories of special education programs, as these programs are 24287  
defined for purposes of Chapter 3323. of the Revised Code, and 24288  
adjusted as provided in this section, are as follows: 24289

(A) A multiple of 0.2892 for students whose primary or only 24290  
identified handicap is a speech and language handicap, as this 24291  
term is defined pursuant to Chapter 3323. of the Revised Code; 24292

(B) A multiple of 0.3691 for students identified as specific 24293  
learning disabled or developmentally handicapped, as these terms 24294  
are defined pursuant to Chapter 3323. of the Revised Code, or 24295  
other health handicapped-minor; 24296

(C) A multiple of 1.7695 for students identified as hearing 24297  
handicapped, vision impaired, or severe behavior handicapped, as 24298  
these terms are defined pursuant to Chapter 3323. of the Revised 24299  
Code; 24300

(D) A multiple of 2.3646 for students identified as 24301  
orthopedically handicapped, as this term is defined pursuant to 24302  
Chapter 3323. of the Revised Code or other health handicapped - 24303  
major; 24304

(E) A multiple of 3.1129 for students identified as 24305  
multihandicapped, as this term is defined pursuant to Chapter 24306

3323. of the Revised Code; 24307

(F) A multiple of 4.7342 for students identified as autistic, 24308  
having traumatic brain injuries, or as both visually and hearing 24309  
disabled, as these terms are defined pursuant to Chapter 3323. of 24310  
the Revised Code. 24311

In fiscal year ~~2002~~ 2004, the multiples specified in 24312  
divisions (A) to (F) of this section shall be adjusted by 24313  
multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the 24314  
multiples specified in those divisions shall be adjusted by 24315  
multiplying them by ~~0.875~~ 0.90. 24316

Not later than May 30, 2004, and May 30, 2005, the department 24317  
shall submit to the office of budget and management a report that 24318  
specifies for each city, local, exempted village, and joint 24319  
vocational school district the fiscal year allocation of the state 24320  
and local shares of special education and related services 24321  
additional weighted funding and federal special education funds 24322  
passed through to the district. 24323

**Sec. 3317.014.** The average vocational education additional 24324  
cost per pupil can be expressed as a multiple of the base cost per 24325  
pupil calculated under section 3317.012 of the Revised Code. the 24326  
multiples for the following categories of vocational education 24327  
programs are as follows: 24328

(A) A multiple of 0.57 for students enrolled in vocational 24329  
education job-training and workforce development programs approved 24330  
by the department of education in accordance with rules adopted 24331  
under section 3313.90 of the Revised Code. 24332

(B) A multiple of 0.28 for students enrolled in vocational 24333  
education classes other than job-training and workforce 24334  
development programs. 24335

Vocational education associated services costs can be 24336

expressed as a multiple of 0.05 of the base cost per pupil 24337  
calculated under section 3317.012 of the Revised Code. 24338

The general assembly has adjusted the multiples specified in 24339  
this section for calculating payments beginning in fiscal year 24340  
2002 in recognition that its policy change regarding the 24341  
application of the cost-of-doing-business factor produces a higher 24342  
base cost amount than would exist if no change were made to its 24343  
application. The adjustment maintains the same weighted costs as 24344  
would exist if no change were made to the application of the 24345  
cost-of-doing-business factor. 24346

The department of education shall annually report to the 24347  
governor and the general assembly the amount of weighted funding 24348  
for vocational education and associated services that is spent by 24349  
each city, local, exempted village, and joint vocational school 24350  
district specifically for vocational educational and associated 24351  
services. 24352

**Sec. 3317.022.** (A)(1) The department of education shall 24353  
compute and distribute state base cost funding to each school 24354  
district for the fiscal year in accordance with the following 24355  
formula, making any adjustment required by division (A)(2) of this 24356  
section and using the information obtained under section 3317.021 24357  
of the Revised Code in the calendar year in which the fiscal year 24358  
begins. 24359

Compute the following for each eligible district: 24360

$\dagger(\text{cost-of-doing-business factor } X$  24361

the formula amount  $X$  ~~(the greater of formula ADM~~ 24362

~~or three-year average formula ADM)~~  $\dagger -$  24363

$(.023 \times \text{recognized valuation})$  24364

If the difference obtained is a negative number, the 24365  
district's computation shall be zero. 24366

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value. 24367  
24368  
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(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. 24372  
24373  
24374  
24375  
24376

(B) As used in this section: 24377

(1) The "total special education weight" for a district means the sum of the following amounts: 24378  
24379

(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; 24380  
24381  
24382

(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; 24383  
24384  
24385

(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; 24386  
24387  
24388

(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; 24389  
24390  
24391

(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; 24392  
24393  
24394

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 24395  
24396

3317.013 of the Revised Code.	24397
(2) "State share percentage" means the percentage calculated for a district as follows:	24398 24399
(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.	24400 24401 24402 24403 24404
(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:	24405 24406 24407
Cost-of-doing-business factor X	24408
the formula amount X <del>(the greater of formula</del>	24409
<del>ADM or three-year average formula ADM)</del>	24410
The resultant number is the district's state share percentage.	24411 24412
(3) "Related services" includes:	24413
(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;	24414 24415 24416 24417 24418 24419 24420 24421
(b) Speech and language services provided to any student with a handicap, including any student whose primary or only handicap is a speech and language handicap;	24422 24423 24424
(c) Any related service not specifically covered by other state funds but specified in federal law, including but not	24425 24426

limited to, audiology and school psychological services;	24427
(d) Any service included in units funded under former	24428
division (O)(1) of section 3317.023 of the Revised Code;	24429
(e) Any other related service needed by handicapped children	24430
in accordance with their individualized education plans.	24431
(4) The "total vocational education weight" for a district	24432
means the sum of the following amounts:	24433
(a) The district's category one vocational education ADM	24434
multiplied by the multiple specified in division (A) of section	24435
3317.014 of the Revised Code;	24436
(b) The district's category two vocational education ADM	24437
multiplied by the multiple specified in division (B) of section	24438
3317.014 of the Revised Code.	24439
(C)(1) The department shall compute and distribute state	24440
special education and related services additional weighted costs	24441
funds to each school district in accordance with the following	24442
formula:	24443
The district's state share percentage	24444
X the formula amount for the year	24445
for which the aid is calculated	24446
X the district's total special education weight	24447
(2) The attributed local share of special education and	24448
related services additional weighted costs equals:	24449
(1 - the district's state share percentage) X	24450
the district's total special education weight X	24451
the formula amount	24452
(3)(a) The department shall compute and pay in accordance	24453
with this division additional state aid to school districts for	24454
students in categories two through six special education ADM. If a	24455
district's costs for the fiscal year for a student in its	24456

categories two through six special education ADM exceed the 24457  
threshold catastrophic cost for serving the student, the district 24458  
may submit to the superintendent of public instruction 24459  
documentation, as prescribed by the superintendent, of all its 24460  
costs for that student. Upon submission of documentation for a 24461  
student of the type and in the manner prescribed, the department 24462  
shall pay to the district an amount equal to the sum of the 24463  
following: 24464

(i) One-half of the district's costs for the student in 24465  
excess of the threshold catastrophic cost; 24466

(ii) The product of one-half of the district's costs for the 24467  
student in excess of the threshold catastrophic cost multiplied by 24468  
the district's state share percentage. 24469

(b) For purposes of division (C)(3)(a) of this section, the 24470  
threshold catastrophic cost for serving a student equals: 24471

(i) For a student in the school district's category two, 24472  
three, four, or five special education ADM, twenty-five thousand 24473  
dollars in fiscal year 2002 and twenty-five thousand seven hundred 24474  
dollars in fiscal ~~year~~ years 2003, 2004, and 2005; 24475

(ii) For a student in the district's category six special 24476  
education ADM, thirty thousand dollars in fiscal year 2002 and 24477  
thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 24478  
2003, 2004, and 2005. 24479

~~The threshold catastrophic costs for fiscal year 2003 24480  
represent a two and eight tenths per cent inflationary increase 24481  
over fiscal year 2002. 24482~~

(c) The district shall only report under division (C)(3)(a) 24483  
of this section, and the department shall only pay for, the costs 24484  
of educational expenses and the related services provided to the 24485  
student in accordance with the student's individualized education 24486  
program. Any legal fees, court costs, or other costs associated 24487

with any cause of action relating to the student may not be 24488  
included in the amount. 24489

~~(5)~~(4)(a) As used in this division, the "personnel allowance" 24490  
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 24491  
2004, and 2005. 24492

(b) For the provision of speech services to students, 24493  
including students who do not have individualized education 24494  
programs prepared for them under Chapter 3323. of the Revised 24495  
Code, and for no other purpose, the department of education shall 24496  
pay each school district an amount calculated under the following 24497  
formula: 24498

(formula ADM divided by 2000) X 24499

the personnel allowance X the state share percentage 24500

(5) In any fiscal year, a school district shall spend for 24501  
purposes that the department designates as approved for special 24502  
education and related services expenses at least the amount 24503  
calculated as follows: 24504

(cost-of-doing-business factor X 24505

formula amount X the sum of categories 24506

one through six special education ADM) + 24507

(total special education weight X formula amount) 24508

The purposes approved by the department for special education 24509  
expenses shall include, but shall not be limited to, 24510  
identification of handicapped children, compliance with state 24511  
rules governing the education of handicapped children and 24512  
prescribing the continuum of program options for handicapped 24513  
children, and the portion of the school district's overall 24514  
administrative and overhead costs that are attributable to the 24515  
district's special education student population. 24516

The department shall require school districts to report data 24517  
annually to allow for monitoring compliance with division (C)(5) 24518

of this section. The department shall annually report to the 24519  
governor and the general assembly the amount of money spent by 24520  
each school district for special education and related services. 24521

(D)(1) As used in this division: 24522

(a) "Daily bus miles per student" equals the number of bus 24523  
miles traveled per day, divided by transportation base. 24524

(b) "Transportation base" equals total student count as 24525  
defined in section 3301.011 of the Revised Code, minus the number 24526  
of students enrolled in preschool handicapped units, plus the 24527  
number of nonpublic school students included in transportation 24528  
ADM. 24529

(c) "Transported student percentage" equals transportation 24530  
ADM divided by transportation base. 24531

(d) "Transportation cost per student" equals total operating 24532  
costs for board-owned or contractor-operated school buses divided 24533  
by transportation base. 24534

(2) Analysis of student transportation cost data has resulted 24535  
in a finding that an average efficient transportation use cost per 24536  
student can be calculated by means of a regression formula that 24537  
has as its two independent variables the number of daily bus miles 24538  
per student and the transported student percentage. For fiscal 24539  
year 1998 transportation cost data, the average efficient 24540  
transportation use cost per student is expressed as follows: 24541

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + 24542$$
$$(116.25573 \times \text{transported student percentage}) 24543$$

The department of education shall annually determine the 24544  
average efficient transportation use cost per student in 24545  
accordance with the principles stated in division (D)(2) of this 24546  
section, updating the intercept and regression coefficients of the 24547  
regression formula modeled in this division, based on an annual 24548  
statewide analysis of each school district's daily bus miles per 24549

student, transported student percentage, and transportation cost 24550  
per student data. The department shall conduct the annual update 24551  
using data, including daily bus miles per student, transported 24552  
student percentage, and transportation cost per student data, from 24553  
the prior fiscal year. The department shall notify the office of 24554  
budget and management of such update by the fifteenth day of 24555  
February of each year. 24556

(3) In addition to funds paid under divisions (A), (C), and 24557  
(E) of this section, each district with a transported student 24558  
percentage greater than zero shall receive a payment equal to a 24559  
percentage of the product of the district's transportation base 24560  
from the prior fiscal year times the annually updated average 24561  
efficient transportation use cost per student, times an inflation 24562  
factor of two and eight tenths per cent to account for the 24563  
one-year difference between the data used in updating the formula 24564  
and calculating the payment and the year in which the payment is 24565  
made. The percentage shall be the following percentage of that 24566  
product specified for the corresponding fiscal year: 24567

FISCAL YEAR	PERCENTAGE	
2000	52.5%	24568
2001	55%	24569
2002	57.5%	24570
2003 and thereafter	The greater of 60% or the district's state share percentage	24571 24572

The payments made under division (D)(3) of this section each 24573  
year shall be calculated based on all of the same prior year's 24574  
data used to update the formula. 24575

(4) In addition to funds paid under divisions (D)(2) and (3) 24576  
of this section, a school district shall receive a rough road 24577  
subsidy if both of the following apply: 24578

(a) Its county rough road percentage is higher than the 24579

statewide rough road percentage, as those terms are defined in 24580  
division (D)(5) of this section; 24581

(b) Its district student density is lower than the statewide 24582  
student density, as those terms are defined in that division. 24583

(5) The rough road subsidy paid to each district meeting the 24584  
qualifications of division (D)(4) of this section shall be 24585  
calculated in accordance with the following formula: 24586

(per rough mile subsidy X total rough road miles) X 24587  
density multiplier 24588

where: 24589

(a) "Per rough mile subsidy" equals the amount calculated in 24590  
accordance with the following formula: 24591

0.75 - {0.75 X [(maximum rough road percentage - 24592  
24593

county rough road percentage)/(maximum rough road percentage - 24594  
statewide rough road percentage)]} 24595

(i) "Maximum rough road percentage" means the highest county 24596  
rough road percentage in the state. 24597

(ii) "County rough road percentage" equals the percentage of 24598  
the mileage of state, municipal, county, and township roads that 24599  
is rated by the department of transportation as type A, B, C, E2, 24600  
or F in the county in which the school district is located or, if 24601  
the district is located in more than one county, the county to 24602  
which it is assigned for purposes of determining its 24603  
cost-of-doing-business factor. 24604

(iii) "Statewide rough road percentage" means the percentage 24605  
of the statewide total mileage of state, municipal, county, and 24606  
township roads that is rated as type A, B, C, E2, or F by the 24607  
department of transportation. 24608

(b) "Total rough road miles" means a school district's total 24609

bus miles traveled in one year times its county rough road percentage. 24610  
24611

(c) "Density multiplier" means a figure calculated in accordance with the following formula: 24612  
24613

1 - [(minimum student density - district student density)/(minimum student density - statewide student density)] 24614  
24615  
24616

(i) "Minimum student density" means the lowest district student density in the state. 24617  
24618

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district. 24619  
24620  
24621

(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. 24622  
24623  
24624

(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. 24625  
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(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: 24633  
24634  
24635

state share percentage X 24636  
the formula amount X 24637  
total vocational education weight 24638

In any fiscal year, a school district receiving funds under division (E)(1) of this section shall spend those funds only for 24639  
24640

the purposes that the department designates as approved for 24641  
vocational education expenses. Vocational educational expenses 24642  
approved by the department shall include only expenses connected 24643  
to the delivery of career-technical programming to 24644  
career-technical students. The department shall require the school 24645  
district to report data annually so that the department may 24646  
monitor the district's compliance with the requirements regarding 24647  
the manner in which funding received under division (E)(1) of this 24648  
section may be spent. 24649

(2) The department shall compute for each school district 24650  
state funds for vocational education associated services in 24651  
accordance with the following formula: 24652

state share percentage X .05 X 24653

the formula amount X the sum of categories one and two 24654

vocational education ADM 24655

In any fiscal year, a school district receiving funds under 24656  
division (E)(2) of this section, or through a transfer of funds 24657  
pursuant to division (L) of section 3317.023 of the Revised Code, 24658  
shall spend those funds only for the purposes that the department 24659  
designates as approved for vocational education associated 24660  
services expenses, which may include such purposes as 24661  
apprenticeship coordinators, coordinators for other vocational 24662  
education services, vocational evaluation, and other purposes 24663  
designated by the department. The department may deny payment 24664  
under division (E)(2) of this section to any district that the 24665  
department determines is not operating those services or is using 24666  
funds paid under division (E)(2) of this section, or through a 24667  
transfer of funds pursuant to division (L) of section 3317.023 of 24668  
the Revised Code, for other purposes. 24669

(F) Beginning in fiscal year 2003, the actual local share in 24670  
any fiscal year for the combination of special education and 24671  
related services additional weighted costs funding calculated 24672

under division (C)(1) of this section, transportation funding 24673  
calculated under divisions (D)(2) and (3) of this section, and 24674  
vocational education and associated services additional weighted 24675  
costs funding calculated under divisions (E)(1) and (2) of this 24676  
section shall not exceed for any school district the product of 24677  
three mills times the district's recognized valuation. Beginning 24678  
in fiscal year 2003, the department annually shall pay each school 24679  
district as an excess cost supplement any amount by which the sum 24680  
of the district's attributed local shares for that funding exceeds 24681  
that product. For purposes of calculating the excess cost 24682  
supplement: 24683

(1) The attributed local share for special education and 24684  
related services additional weighted costs funding is the amount 24685  
specified in division (C)(2) of this section. 24686

(2) The attributed local share of transportation funding 24687  
equals the difference of the total amount calculated for the 24688  
district using the formula developed under division (D)(2) of this 24689  
section minus the actual amount paid to the district after 24690  
applying the percentage specified in division (D)(3) of this 24691  
section. 24692

(3) The attributed local share of vocational education and 24693  
associated services additional weighted costs funding is the 24694  
amount determined as follows: 24695

(1 - state share percentage) X 24696  
[(total vocational education weight X the formula amount) + 24697  
the payment under division (E)(2) of this section] 24698

**Sec. 3317.023.** (A) Notwithstanding section 3317.022 of the 24699  
Revised Code, the amounts required to be paid to a district under 24700  
this chapter shall be adjusted by the amount of the computations 24701  
made under divisions (B) to ~~(L)~~(M) of this section. 24702

As used in this section: 24703

(1) "Classroom teacher" means a licensed employee who 24704  
provides direct instruction to pupils, excluding teachers funded 24705  
from money paid to the district from federal sources; educational 24706  
service personnel; and vocational and special education teachers. 24707

(2) "Educational service personnel" shall not include such 24708  
specialists funded from money paid to the district from federal 24709  
sources or assigned full-time to vocational or special education 24710  
students and classes and may only include those persons employed 24711  
in the eight specialist areas in a pattern approved by the 24712  
department of education under guidelines established by the state 24713  
board of education. 24714

(3) "Annual salary" means the annual base salary stated in 24715  
the state minimum salary schedule for the performance of the 24716  
teacher's regular teaching duties that the teacher earns for 24717  
services rendered for the first full week of October of the fiscal 24718  
year for which the adjustment is made under division (C) of this 24719  
section. It shall not include any salary payments for supplemental 24720  
teachers contracts. 24721

(4) "Regular student population" means the formula ADM plus 24722  
the number of students reported as enrolled in the district 24723  
pursuant to division (A)(1) of section 3313.981 of the Revised 24724  
Code; minus the number of students reported under division (A)(2) 24725  
of section 3317.03 of the Revised Code; minus the FTE of students 24726  
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 24727  
(12) of that section who are enrolled in a vocational education 24728  
class or receiving special education; and minus ~~one-fourth~~ ten per  
cent of the students enrolled concurrently in a joint vocational 24729  
school district. 24730  
24731

(5) "State share percentage" has the same meaning as in 24732  
section 3317.022 of the Revised Code. 24733

(6) "VEPD" means a school district or group of school 24734

districts designated by the department of education as being 24735  
responsible for the planning for and provision of vocational 24736  
education services to students within the district or group. 24737

(7) "Lead district" means a school district, including a 24738  
joint vocational school district, designated by the department as 24739  
a VEPD, or designated to provide primary vocational education 24740  
leadership within a VEPD composed of a group of districts. 24741

(B) If the district employs less than one full-time 24742  
equivalent classroom teacher for each twenty-five pupils in the 24743  
regular student population in any school district, deduct the sum 24744  
of the amounts obtained from the following computations: 24745

(1) Divide the number of the district's full-time equivalent 24746  
classroom teachers employed by one twenty-fifth; 24747

(2) Subtract the quotient in (1) from the district's regular 24748  
student population; 24749

(3) Multiply the difference in (2) by seven hundred fifty-two 24750  
dollars. 24751

(C) If a positive amount, add one-half of the amount obtained 24752  
by multiplying the number of full-time equivalent classroom 24753  
teachers by: 24754

(1) The mean annual salary of all full-time equivalent 24755  
classroom teachers employed by the district at their respective 24756  
training and experience levels minus; 24757

(2) The mean annual salary of all such teachers at their 24758  
respective levels in all school districts receiving payments under 24759  
this section. 24760

The number of full-time equivalent classroom teachers used in 24761  
this computation shall not exceed one twenty-fifth of the 24762  
district's regular student population. In calculating the 24763  
district's mean salary under this division, those full-time 24764

equivalent classroom teachers with the highest training level 24765  
shall be counted first, those with the next highest training level 24766  
second, and so on, in descending order. Within the respective 24767  
training levels, teachers with the highest years of service shall 24768  
be counted first, the next highest years of service second, and so 24769  
on, in descending order. 24770

(D) This division does not apply to a school district that 24771  
has entered into an agreement under division (A) of section 24772  
3313.42 of the Revised Code. Deduct the amount obtained from the 24773  
following computations if the district employs fewer than five 24774  
full-time equivalent educational service personnel, including 24775  
elementary school art, music, and physical education teachers, 24776  
counselors, librarians, visiting teachers, school social workers, 24777  
and school nurses for each one thousand pupils in the regular 24778  
student population: 24779

(1) Divide the number of full-time equivalent educational 24780  
service personnel employed by the district by five 24781  
one-thousandths; 24782

(2) Subtract the quotient in (1) from the district's regular 24783  
student population; 24784

(3) Multiply the difference in (2) by ninety-four dollars. 24785

(E) If a local school district, or a city or exempted village 24786  
school district to which a governing board of an educational 24787  
service center provides services pursuant to section 3313.843 of 24788  
the Revised Code, deduct the amount of the payment required for 24789  
the reimbursement of the governing board under section 3317.11 of 24790  
the Revised Code. 24791

(F)(1) If the district is required to pay to or entitled to 24792  
receive tuition from another school district under division (C)(2) 24793  
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 24794  
or if the superintendent of public instruction is required to 24795

determine the correct amount of tuition and make a deduction or 24796  
credit under section 3317.08 of the Revised Code, deduct and 24797  
credit such amounts as provided in division (I) of section 3313.64 24798  
or section 3317.08 of the Revised Code. 24799

(2) For each child for whom the district is responsible for 24800  
tuition or payment under division (A)(1) of section 3317.082 or 24801  
section 3323.091 of the Revised Code, deduct the amount of tuition 24802  
or payment for which the district is responsible. 24803

(G) If the district has been certified by the superintendent 24804  
of public instruction under section 3313.90 of the Revised Code as 24805  
not in compliance with the requirements of that section, deduct an 24806  
amount equal to ten per cent of the amount computed for the 24807  
district under section 3317.022 of the Revised Code. 24808

(H) If the district has received a loan from a commercial 24809  
lending institution for which payments are made by the 24810  
superintendent of public instruction pursuant to division (E)(3) 24811  
of section 3313.483 of the Revised Code, deduct an amount equal to 24812  
such payments. 24813

(I)(1) If the district is a party to an agreement entered 24814  
into under division (D), (E), or (F) of section 3311.06 or 24815  
division (B) of section 3311.24 of the Revised Code and is 24816  
obligated to make payments to another district under such an 24817  
agreement, deduct an amount equal to such payments if the district 24818  
school board notifies the department in writing that it wishes to 24819  
have such payments deducted. 24820

(2) If the district is entitled to receive payments from 24821  
another district that has notified the department to deduct such 24822  
payments under division (I)(1) of this section, add the amount of 24823  
such payments. 24824

(J) If the district is required to pay an amount of funds to 24825  
a cooperative education district pursuant to a provision described 24826

by division (B)(4) of section 3311.52 or division (B)(8) of 24827  
section 3311.521 of the Revised Code, deduct such amounts as 24828  
provided under that provision and credit those amounts to the 24829  
cooperative education district for payment to the district under 24830  
division (B)(1) of section 3317.19 of the Revised Code. 24831

(K)(1) If a district is educating a student entitled to 24832  
attend school in another district pursuant to a shared education 24833  
contract, compact, or cooperative education agreement other than 24834  
an agreement entered into pursuant to section 3313.842 of the 24835  
Revised Code, credit to that educating district on an FTE basis 24836  
both of the following: 24837

(a) An amount equal to the formula amount times the cost of 24838  
doing business factor of the school district where the student is 24839  
entitled to attend school pursuant to section 3313.64 or 3313.65 24840  
of the Revised Code; 24841

(b) An amount equal to the formula amount times the state 24842  
share percentage times any multiple applicable to the student 24843  
pursuant to section 3317.013 or 3317.014 of the Revised Code. 24844

(2) Deduct any amount credited pursuant to division (K)(1) of 24845  
this section from amounts paid to the school district in which the 24846  
student is entitled to attend school pursuant to section 3313.64 24847  
or 3313.65 of the Revised Code. 24848

(3) If the district is required by a shared education 24849  
contract, compact, or cooperative education agreement to make 24850  
payments to an educational service center, deduct the amounts from 24851  
payments to the district and add them to the amounts paid to the 24852  
service center pursuant to section 3317.11 of the Revised Code. 24853

(L)(1) If a district, including a joint vocational school 24854  
district, is a lead district of a VEPP, credit to that district 24855  
the amounts calculated for all the school districts within that 24856  
VEPP pursuant to division (E)(2) of section 3317.022 of the 24857

Revised Code. 24858

(2) Deduct from each appropriate district that is not a lead 24859  
district, the amount attributable to that district that is 24860  
credited to a lead district under division (L)(1) of this section. 24861

(M) If the department pays a joint vocational school district 24862  
under division (G)(4) of section 3317.16 of the Revised Code for 24863  
excess costs of providing special education and related services 24864  
to a handicapped student, as calculated under division (G)(2) of 24865  
that section, the department shall deduct the amount of that 24866  
payment from the city, local, or exempted village school district 24867  
that is responsible as specified in that section for the excess 24868  
costs. 24869

**Sec. 3317.024.** In addition to the moneys paid to eligible 24870  
school districts pursuant to section 3317.022 of the Revised Code, 24871  
moneys appropriated for the education programs in divisions (A) to 24872  
(H), (J) to (L), (O), (P), and (R) of this section shall be 24873  
distributed to school districts meeting the requirements of 24874  
section 3317.01 of the Revised Code; in the case of divisions (J) 24875  
and (P) of this section, to educational service centers as 24876  
provided in section 3317.11 of the Revised Code; in the case of 24877  
divisions (E), (M), and (N) of this section, to county MR/DD 24878  
boards; in the case of division (R) of this section, to joint 24879  
vocational school districts; in the case of division (K) of this 24880  
section, to cooperative education school districts; and in the 24881  
case of division (Q) of this section, to the institutions defined 24882  
under section 3317.082 of the Revised Code providing elementary or 24883  
secondary education programs to children other than children 24884  
receiving special education under section 3323.091 of the Revised 24885  
Code. The following shall be distributed monthly, quarterly, or 24886  
annually as may be determined by the state board of education: 24887

(A) A per pupil amount to each school district that 24888

establishes a summer school remediation program that complies with 24889  
rules of the state board of education. 24890

(B) An amount for each island school district and each joint 24891  
state school district for the operation of each high school and 24892  
each elementary school maintained within such district and for 24893  
capital improvements for such schools. Such amounts shall be 24894  
determined on the basis of standards adopted by the state board of 24895  
education. 24896

(C) An amount for each school district operating classes for 24897  
children of migrant workers who are unable to be in attendance in 24898  
an Ohio school during the entire regular school year. The amounts 24899  
shall be determined on the basis of standards adopted by the state 24900  
board of education, except that payment shall be made only for 24901  
subjects regularly offered by the school district providing the 24902  
classes. 24903

(D) An amount for each school district with guidance, 24904  
testing, and counseling programs approved by the state board of 24905  
education. The amount shall be determined on the basis of 24906  
standards adopted by the state board of education. 24907

(E) An amount for the emergency purchase of school buses as 24908  
provided for in section 3317.07 of the Revised Code; 24909

(F) An amount for each school district required to pay 24910  
tuition for a child in an institution maintained by the department 24911  
of youth services pursuant to section 3317.082 of the Revised 24912  
Code, provided the child was not included in the calculation of 24913  
the district's average daily membership for the preceding school 24914  
year. 24915

(G) In fiscal year 2000 only, an amount to each school 24916  
district for supplemental salary allowances for each licensed 24917  
employee except those licensees serving as superintendents, 24918  
assistant superintendents, principals, or assistant principals, 24919

whose term of service in any year is extended beyond the term of 24920  
service of regular classroom teachers, as described in section 24921  
3301.0725 of the Revised Code; 24922

(H) An amount for adult basic literacy education for each 24923  
district participating in programs approved by the state board of 24924  
education. The amount shall be determined on the basis of 24925  
standards adopted by the state board of education. 24926

(I) Notwithstanding section 3317.01 of the Revised Code, but 24927  
only until June 30, 1999, to each city, local, and exempted 24928  
village school district, an amount for conducting driver education 24929  
courses at high schools for which the state board of education 24930  
prescribes minimum standards and to joint vocational and 24931  
cooperative education school districts and educational service 24932  
centers, an amount for conducting driver education courses to 24933  
pupils enrolled in a high school for which the state board 24934  
prescribes minimum standards. No payments shall be made under this 24935  
division after June 30, 1999. 24936

(J) An amount for the approved cost of transporting 24937  
developmentally handicapped pupils whom it is impossible or 24938  
impractical to transport by regular school bus in the course of 24939  
regular route transportation provided by the district or service 24940  
center. No district or service center is eligible to receive a 24941  
payment under this division for the cost of transporting any pupil 24942  
whom it transports by regular school bus and who is included in 24943  
the district's transportation ADM. The state board of education 24944  
shall establish standards and guidelines for use by the department 24945  
of education in determining the approved cost of such 24946  
transportation for each district or service center. 24947

(K) An amount to each school district, including each 24948  
cooperative education school district, pursuant to section 3313.81 24949  
of the Revised Code to assist in providing free lunches to needy 24950  
children and an amount to assist needy school districts in 24951

purchasing necessary equipment for food preparation. The amounts 24952  
shall be determined on the basis of rules adopted by the state 24953  
board of education. 24954

(L) An amount to each school district, for each pupil 24955  
attending a chartered nonpublic elementary or high school within 24956  
the district. The amount shall equal the amount appropriated for 24957  
the implementation of section 3317.06 of the Revised Code divided 24958  
by the average daily membership in grades kindergarten through 24959  
twelve in nonpublic elementary and high schools within the state 24960  
as determined during the first full week in October of each school 24961  
year. 24962

(M) An amount for each county MR/DD board, distributed on the 24963  
basis of standards adopted by the state board of education, for 24964  
the approved cost of transportation required for children 24965  
attending special education programs operated by the county MR/DD 24966  
board under section 3323.09 of the Revised Code; 24967

(N) An amount for each county MR/DD board, distributed on the 24968  
basis of standards adopted by the state board of education, for 24969  
supportive home services for preschool children; 24970

(O) An amount for each school district that establishes a 24971  
mentor teacher program that complies with rules of the state board 24972  
of education. No school district shall be required to establish or 24973  
maintain such a program in any year unless sufficient funds are 24974  
appropriated to cover the district's total costs for the program. 24975

(P) An amount to each school district or educational service 24976  
center for the total number of gifted units approved pursuant to 24977  
section 3317.05 of the Revised Code. The amount for each such unit 24978  
shall be the sum of the minimum salary for the teacher of the 24979  
unit, calculated on the basis of the teacher's training level and 24980  
years of experience pursuant to the salary schedule prescribed in 24981  
the version of section 3317.13 of the Revised Code in effect prior 24982

to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 24983  
per cent of that minimum salary amount, plus two thousand six 24984  
hundred seventy-eight dollars. 24985

(Q) An amount to each institution defined under section 24986  
3317.082 of the Revised Code providing elementary or secondary 24987  
education to children other than children receiving special 24988  
education under section 3323.091 of the Revised Code. This amount 24989  
for any institution in any fiscal year shall equal the total of 24990  
all tuition amounts required to be paid to the institution under 24991  
division (A)(1) of section 3317.082 of the Revised Code. 24992

(R) A grant to each school district and joint vocational 24993  
school district that operates a "graduation, reality, and 24994  
dual-role skills" (GRADS) program for pregnant and parenting 24995  
students that is approved by the department. The amount of the 24996  
payment shall be the district's state share percentage, as defined 24997  
in section 3317.022 or 3317.16 of the Revised Code, times the 24998  
GRADS personnel allowance times the full-time-equivalent number of 24999  
GRADS teachers approved by the department. The GRADS personnel 25000  
allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 25001  
2005. 25002

The state board of education or any other board of education 25003  
or governing board may provide for any resident of a district or 25004  
educational service center territory any educational service for 25005  
which funds are made available to the board by the United States 25006  
under the authority of public law, whether such funds come 25007  
directly or indirectly from the United States or any agency or 25008  
department thereof or through the state or any agency, department, 25009  
or political subdivision thereof. 25010

**Sec. 3317.029.** (A) As used in this section: 25011

(1) "DPIA percentage" means: 25012

(a) In fiscal years prior to fiscal year 2004, the quotient 25013  
obtained by dividing the five-year average number of children ages 25014  
five to seventeen residing in the school district and living in a 25015  
family receiving assistance under the Ohio works first program or 25016  
an antecedent program known as TANF or ADC, as certified or 25017  
adjusted under section 3317.10 of the Revised Code, by the 25018  
district's three-year average formula ADM. 25019

(b) Beginning in fiscal year 2004, the unduplicated number of 25020  
children ages five to seventeen residing in the school district 25021  
and living in a family that has family income not exceeding the 25022  
federal poverty guidelines and that receives family assistance, as 25023  
certified or adjusted under section 3317.10 of the Revised Code, 25024  
divided by the district's three-year average formula ADM. 25025

(2) "Family assistance" means assistance received under one 25026  
of the following: 25027

(a) The Ohio works first program; 25028

(b) The food stamp program; 25029

(c) The medical assistance program, including the healthy 25030  
start program, established under Chapter 5111. of the Revised 25031  
Code; 25032

(d) The children's health insurance program part I 25033  
established under section 5101.50 of the Revised Code or, prior to 25034  
fiscal year 2000, an executive order issued under section 107.17 25035  
of the Revised Code; 25036

(e) The disability financial assistance program established 25037  
under Chapter 5115. of the Revised Code; 25038

(f) The disability medical assistance program established 25039  
under Chapter 5115. of the Revised Code. 25040

(3) "Statewide DPIA percentage" means: 25041

(a) In fiscal years prior to fiscal year 2004, the five-year 25042

average of the total number of children ages five to seventeen 25043  
years residing in the state and receiving assistance under the 25044  
Ohio works first program or an antecedent program known as TANF or 25045  
ADC, divided by the sum of the three-year average formula ADMs for 25046  
all school districts in the state. 25047

(b) Beginning in fiscal year 2004, the total unduplicated 25048  
number of children ages five to seventeen residing in the state 25049  
and living in a family that has family income not exceeding the 25050  
federal poverty guidelines and that receives family assistance, 25051  
divided by the sum of the three-year average formula ADMs for all 25052  
school districts in the state. 25053

(4) "DPIA index" means the quotient obtained by dividing the 25054  
school district's DPIA percentage by the statewide DPIA 25055  
percentage. 25056

(5) "Federal poverty guidelines" has the same meaning as in 25057  
section 5101.46 of the Revised Code. 25058

(6) "DPIA student count" means: 25059

(a) In fiscal years prior to fiscal year 2004, the five-year 25060  
average number of children ages five to seventeen residing in the 25061  
school district and living in a family receiving assistance under 25062  
the Ohio works first program or an antecedent program known as 25063  
TANF or ADC, as certified under section 3317.10 of the Revised 25064  
Code; 25065

(b) Beginning in fiscal year 2004, the unduplicated number of 25066  
children ages five to seventeen residing in the school district 25067  
and living in a family that has family income not exceeding the 25068  
federal poverty guidelines and that receives family assistance, as 25069  
certified or adjusted under section 3317.10 of the Revised Code. 25070

(7) "Kindergarten ADM" means the number of students reported 25071  
under section 3317.03 of the Revised Code as enrolled in 25072  
kindergarten. 25073

(8) "Kindergarten through third grade ADM" means the amount	25074
calculated as follows:	25075
(a) Multiply the kindergarten ADM by the sum of one plus the	25076
all-day kindergarten percentage;	25077
(b) Add the number of students in grades one through three;	25078
(c) Subtract from the sum calculated under division (A)(6)(b)	25079
of this section the number of special education students in grades	25080
kindergarten through three.	25081
(9) "Statewide average teacher salary" means forty-two	25082
thousand four hundred sixty-nine dollars in fiscal year 2002, and	25083
forty-three thousand six hundred fifty-eight dollars in fiscal	25084
year 2003, which includes an amount for the value of fringe	25085
benefits.	25086
(10) "All-day kindergarten" means a kindergarten class that	25087
is in session five days per week for not less than the same number	25088
of clock hours each day as for pupils in grades one through six.	25089
(11) "All-day kindergarten percentage" means the percentage	25090
of a district's actual total number of students enrolled in	25091
kindergarten who are enrolled in all-day kindergarten.	25092
(12) "Buildings with the highest concentration of need"	25093
means:	25094
(a) In fiscal years prior to fiscal year 2004, the school	25095
buildings in a district with percentages of students in grades	25096
kindergarten through three receiving assistance under Ohio works	25097
first at least as high as the district-wide percentage of students	25098
receiving such assistance.	25099
(b) Beginning in fiscal year 2004, the school buildings in a	25100
district with percentages of students in grades kindergarten	25101
through three receiving family assistance at least as high as the	25102
district-wide percentage of students receiving family assistance.	25103

(c) If, in any fiscal year, the information provided by the department of job and family services under section 3317.10 of the Revised Code is insufficient to determine the Ohio works first or family assistance percentage in each building, "buildings with the highest concentration of need" has the meaning given in rules that the department of education shall adopt. The rules shall base the definition of "buildings with the highest concentration of need" on family income of students in grades kindergarten through three in a manner that, to the extent possible with available data, approximates the intent of this division and division (G) of this section to designate buildings where the Ohio works first or family assistance percentage in those grades equals or exceeds the district-wide Ohio works first or family assistance percentage.

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a school district shall receive the greater of the amount the district received in fiscal year 1998 pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the sum of the computations made under divisions (C) to (E) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar programs, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty-five-hundredths, but less than one, an amount obtained by multiplying the district's DPIA student count by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the district's DPIA student count.

Except as otherwise provided in division (F) of this section, 25135  
beginning with the school year that starts July 1, 2002, each 25136  
school district annually shall use at least twenty per cent of the 25137  
funds calculated for the district under this division for 25138  
intervention services required by section 3313.608 of the Revised 25139  
Code. 25140

(D) A payment for all-day kindergarten if the DPIA index of 25141  
the school district is greater than or equal to one or if the 25142  
district's three-year average formula ADM exceeded seventeen 25143  
thousand five hundred, calculated by multiplying the all-day 25144  
kindergarten percentage by the kindergarten ADM and multiplying 25145  
that product by the formula amount. 25146

(E) A class-size reduction payment based on calculating the 25147  
number of new teachers necessary to achieve a lower 25148  
student-teacher ratio, as follows: 25149

(1) Determine or calculate a formula number of teachers per 25150  
one thousand students based on the DPIA index of the school 25151  
district as follows: 25152

(a) If the DPIA index of the school district is less than 25153  
six-tenths, the formula number of teachers is 43.478, which is the 25154  
number of teachers per one thousand students at a student-teacher 25155  
ratio of twenty-three to one; 25156

(b) If the DPIA index of the school district is greater than 25157  
or equal to six-tenths, but less than two and one-half, the 25158  
formula number of teachers is calculated as follows: 25159

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 25160$$

Where 43.478 is the number of teachers per one thousand 25161  
students at a student-teacher ratio of twenty-three to one; 1.9 is 25162  
the interval from a DPIA index of six-tenths to a DPIA index of 25163  
two and one-half; and 23.188 is the difference in the number of 25164  
teachers per one thousand students at a student-teacher ratio of 25165

fifteen to one and the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one. 25166  
25167

(c) If the DPIA index of the school district is greater than or equal to two and one-half, the formula number of teachers is 66.667, which is the number of teachers per one thousand students at a student-teacher ratio of fifteen to one. 25168  
25169  
25170  
25171

(2) Multiply the formula number of teachers determined or calculated in division (E)(1) of this section by the kindergarten through third grade ADM for the district and divide that product by one thousand; 25172  
25173  
25174  
25175

(3) Calculate the number of new teachers as follows: 25176

(a) Multiply the kindergarten through third grade ADM by 43.478, which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one, and divide that product by one thousand; 25177  
25178  
25179  
25180

(b) Subtract the quotient obtained in division (E)(3)(a) of this section from the product in division (E)(2) of this section. 25181  
25182

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers salary. 25183  
25184  
25185

(F) This division applies only to school districts whose DPIA index is one or greater. 25186  
25187

(1) Each school district subject to this division shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. 25188  
25189  
25190  
25191  
25192

(2) Up to an amount equal to the district's DPIA index multiplied by its DPIA student count multiplied by two hundred thirty dollars of the money distributed under this section may be 25193  
25194  
25195

utilized for one or both of the following:	25196
(a) Programs designed to ensure that schools are free of	25197
drugs and violence and have a disciplined environment conducive to	25198
learning;	25199
(b) Remediation for students who have failed or are in danger	25200
of failing any of the tests administered pursuant to section	25201
3301.0710 of the Revised Code.	25202
Beginning with the school year that starts on July 1, 2002,	25203
each school district shall use at least twenty per cent of the	25204
funds set aside for the purposes of divisions (F)(2)(a) and (b) of	25205
this section to provide intervention services required by section	25206
3313.608 of the Revised Code.	25207
(3) Except as otherwise required by division (G) or permitted	25208
under division (K) of this section, all other funds distributed	25209
under this section to districts subject to this division shall be	25210
utilized for the purpose of the third grade guarantee. The third	25211
grade guarantee consists of increasing the amount of instructional	25212
attention received per pupil in kindergarten through third grade,	25213
either by reducing the ratio of students to instructional	25214
personnel or by increasing the amount of instruction and	25215
curriculum-related activities by extending the length of the	25216
school day or the school year.	25217
School districts may implement a reduction of the ratio of	25218
students to instructional personnel through any or all of the	25219
following methods:	25220
(a) Reducing the number of students in a classroom taught by	25221
a single teacher;	25222
(b) Employing full-time educational aides or educational	25223
paraprofessionals issued a permit or license under section	25224
3319.088 of the Revised Code;	25225

(c) Instituting a team-teaching method that will result in a 25226  
lower student-teacher ratio in a classroom. 25227

Districts may extend the school day either by increasing the 25228  
amount of time allocated for each class, increasing the number of 25229  
classes provided per day, offering optional academic-related 25230  
after-school programs, providing curriculum-related extra 25231  
curricular activities, or establishing tutoring or remedial 25232  
services for students who have demonstrated an educational need. 25233  
In accordance with section 3319.089 of the Revised Code, a 25234  
district extending the school day pursuant to this division may 25235  
utilize a participant of the work experience program who has a 25236  
child enrolled in a public school in that district and who is 25237  
fulfilling the work requirements of that program by volunteering 25238  
or working in that public school. If the work experience program 25239  
participant is compensated, the school district may use the funds 25240  
distributed under this section for all or part of the 25241  
compensation. 25242

Districts may extend the school year either through adding 25243  
regular days of instruction to the school calendar or by providing 25244  
summer programs. 25245

(G) Each district subject to division (F) of this section 25246  
shall not expend any funds received under division (E) of this 25247  
section in any school buildings that are not buildings with the 25248  
highest concentration of need, unless there is a ratio of 25249  
instructional personnel to students of no more than fifteen to one 25250  
in each kindergarten and first grade class in all buildings with 25251  
the highest concentration of need. This division does not require 25252  
that the funds used in buildings with the highest concentration of 25253  
need be spent solely to reduce the ratio of instructional 25254  
personnel to students in kindergarten and first grade. A school 25255  
district may spend the funds in those buildings in any manner 25256  
permitted by division (F)(3) of this section, but may not spend 25257

the money in other buildings unless the fifteen-to-one ratio 25258  
required by this division is attained. 25259

(H)(1) By the first day of August of each fiscal year, each 25260  
school district wishing to receive any funds under division (D) of 25261  
this section shall submit to the department of education an 25262  
estimate of its all-day kindergarten percentage. Each district 25263  
shall update its estimate throughout the fiscal year in the form 25264  
and manner required by the department, and the department shall 25265  
adjust payments under this section to reflect the updates. 25266

(2) Annually by the end of December, the department of 25267  
education, utilizing data from the information system established 25268  
under section 3301.0714 of the Revised Code and after consultation 25269  
with the legislative office of education oversight, shall 25270  
determine for each school district subject to division (F) of this 25271  
section whether in the preceding fiscal year the district's ratio 25272  
of instructional personnel to students and its number of 25273  
kindergarten students receiving all-day kindergarten appear 25274  
reasonable, given the amounts of money the district received for 25275  
that fiscal year pursuant to divisions (D) and (E) of this 25276  
section. If the department is unable to verify from the data 25277  
available that students are receiving reasonable amounts of 25278  
instructional attention and all-day kindergarten, given the funds 25279  
the district has received under this section and that class-size 25280  
reduction funds are being used in school buildings with the 25281  
highest concentration of need as required by division (G) of this 25282  
section, the department shall conduct a more intensive 25283  
investigation to ensure that funds have been expended as required 25284  
by this section. The department shall file an annual report of its 25285  
findings under this division with the chairpersons of the 25286  
committees in each house of the general assembly dealing with 25287  
finance and education. 25288

(I) Any school district with a DPIA index less than one and a 25289

three-year average formula ADM exceeding seventeen thousand five	25290
hundred shall first utilize funds received under this section so	25291
that, when combined with other funds of the district, sufficient	25292
funds exist to provide all-day kindergarten to at least the number	25293
of children in the district's all-day kindergarten percentage.	25294
Such a district shall expend at least seventy per cent of the	25295
remaining funds received under this section, and any other	25296
district with a DPIA index less than one shall expend at least	25297
seventy per cent of all funds received under this section, for any	25298
of the following purposes:	25299
(1) The purchase of technology for instructional purposes;	25300
(2) All-day kindergarten;	25301
(3) Reduction of class sizes;	25302
(4) Summer school remediation;	25303
(5) Dropout prevention programs;	25304
(6) Guaranteeing that all third graders are ready to progress	25305
to more advanced work;	25306
(7) Summer education and work programs;	25307
(8) Adolescent pregnancy programs;	25308
(9) Head start or preschool programs;	25309
(10) Reading improvement programs described by the department	25310
of education;	25311
(11) Programs designed to ensure that schools are free of	25312
drugs and violence and have a disciplined environment conducive to	25313
learning;	25314
(12) Furnishing, free of charge, materials used in courses of	25315
instruction, except for the necessary textbooks or electronic	25316
textbooks required to be furnished without charge pursuant to	25317
section 3329.06 of the Revised Code, to pupils living in families	25318

participating in Ohio works first in accordance with section 25319  
3313.642 of the Revised Code; 25320

(13) School breakfasts provided pursuant to section 3313.813 25321  
of the Revised Code. 25322

Each district shall submit to the department, in such format 25323  
and at such time as the department shall specify, a report on the 25324  
programs for which it expended funds under this division. 25325

(J) If at any time the superintendent of public instruction 25326  
determines that a school district receiving funds under division 25327  
(D) of this section has enrolled less than the all-day 25328  
kindergarten percentage reported for that fiscal year, the 25329  
superintendent shall withhold from the funds otherwise due the 25330  
district under this section a proportional amount as determined by 25331  
the difference in the certified all-day kindergarten percentage 25332  
and the percentage actually enrolled in all-day kindergarten. 25333

The superintendent shall also withhold an appropriate amount 25334  
of funds otherwise due a district for any other misuse of funds 25335  
not in accordance with this section. 25336

(K)(1) A district may use a portion of the funds calculated 25337  
for it under division (D) of this section to modify or purchase 25338  
classroom space to provide all-day kindergarten, if both of the 25339  
following conditions are met: 25340

(a) The district certifies to the department, in a manner 25341  
acceptable to the department, that it has a shortage of space for 25342  
providing all-day kindergarten. 25343

(b) The district provides all-day kindergarten to the number 25344  
of children in the all-day kindergarten percentage it certified 25345  
under this section. 25346

(2) A district may use a portion of the funds described in 25347  
division (F)(3) of this section to modify or purchase classroom 25348

space to enable it to further reduce class size in grades 25349  
kindergarten through two with a goal of attaining class sizes of 25350  
fifteen students per licensed teacher. To do so, the district must 25351  
certify its need for additional space to the department, in a 25352  
manner satisfactory to the department. 25353

**Sec. 3317.0217.** The department of education shall annually 25354  
compute and pay state parity aid to school districts, as follows: 25355

(A) Calculate the local wealth per pupil of each school 25356  
district, which equals the following sum: 25357

(1) Two-thirds times the quotient of (a) the district's 25358  
recognized valuation divided by (b) its formula ADM; plus 25359

(2) One-third times the quotient of (a) the average of the 25360  
total federal adjusted gross income of the school district's 25361  
residents for the three years most recently reported under section 25362  
3317.021 of the Revised Code divided by (b) its formula ADM. 25363

(B) Rank all school districts in order of local wealth per 25364  
pupil, from the district with the lowest local wealth per pupil to 25365  
the district with the highest local wealth per pupil. 25366

(C) Compute the per pupil state parity aid funding for each 25367  
school district in accordance with the following formula: 25368

Payment percentage X (threshold local wealth 25369  
per pupil - the district's local 25370  
wealth per pupil) X 0.0095 25371

Where: 25372

(1) "Payment percentage," for purposes of division (C) of 25373  
this section, equals 20% in fiscal year 2002, 40% in fiscal year 25374  
2003, 60% in fiscal year 2004, 80% in fiscal year 2005, and 100% 25375  
after fiscal year 2005. 25376

(2) Nine and one-half mills (0.0095) is the general 25377  
assembly's determination of the average number of effective 25378

operating mills that districts in the seventieth to ninetieth 25379  
percentiles of valuations per pupil collected in fiscal year 2001 25380  
above the revenues required to finance their attributed local 25381  
shares of the calculated cost of an adequate education. This was 25382  
determined by (a) adding the district revenues from operating 25383  
property tax levies and income tax levies, (b) subtracting from 25384  
that total the sum of (i) twenty-three mills times adjusted 25385  
recognized valuation plus (ii) the attributed local shares of 25386  
special education, transportation, and vocational education 25387  
funding as described in divisions (F)(1) to (3) of section 25388  
3317.022 of the Revised Code, and (c) converting the result to an 25389  
effective operating property tax rate. 25390

(3) The "threshold local wealth per pupil" is the local 25391  
wealth per pupil of the school district with the 25392  
four-hundred-ninetieth lowest local wealth per pupil. 25393

If the result of the calculation for a school district under 25394  
division (C) of this section is less than zero, the district's per 25395  
pupil parity aid shall be zero. 25396

(D) Compute the per pupil alternative parity aid for each 25397  
school district that has a combination of an income factor of 1.0 25398  
or less, a DPIA index of 1.0 or greater, and a 25399  
cost-of-doing-business factor of 1.0375 or greater, in accordance 25400  
with the following formula: 25401

$$\begin{aligned} & \text{Payment percentage} \times \$60,000 \times 25402 \\ & (1 - \text{income factor}) \times 4/15 \times 0.023 \quad 25403 \end{aligned}$$

Where: 25404

(1) "DPIA index" has the same meaning as in section 3317.029 25405  
of the Revised Code. 25406

(2) "Payment percentage," for purposes of division (D) of 25407  
this section, equals 50% in fiscal year 2002 and 100% after fiscal 25408  
year 2002. 25409

(E) Pay each district that has a combination of an income 25410  
factor 1.0 or less, a DPIA index of 1.0 or greater, and a 25411  
cost-of-doing-business factor of 1.0375 or greater, the greater of 25412  
the following: 25413

(1) The product of the district's per pupil parity aid 25414  
calculated under division (C) of this section times its formula 25415  
ADM; 25416

(2) The product of its per pupil alternative parity aid 25417  
calculated under division (D) of this section times its formula 25418  
ADM. 25419

(F) Pay every other district the product of its per pupil 25420  
parity aid calculated under division (C) of this section times its 25421  
formula ADM. 25422

~~Every six years, the general assembly shall redetermine, 25423  
after considering the report of the committee appointed under 25424  
section 3317.012 of the Revised Code, the average number of 25425  
effective operating mills that districts in the seventieth to 25426  
ninetieth percentiles of valuations per pupil collect above the 25427  
revenues required to finance their attributed local shares of the 25428  
cost of an adequate education. 25429~~

**Sec. 3317.03.** Notwithstanding divisions (A)(1), (B)(1), and 25430  
(C) of this section, any student enrolled in kindergarten more 25431  
than half time shall be reported as one-half student under this 25432  
section. 25433

(A) The superintendent of each city and exempted village 25434  
school district and of each educational service center shall, for 25435  
the schools under the superintendent's supervision, certify to the 25436  
state board of education on or before the fifteenth day of October 25437  
in each year for the first full school week in October the formula 25438  
ADM, which shall consist of the average daily membership during 25439

such week of the sum of the following:	25440
(1) On an FTE basis, the number of students in grades	25441
kindergarten through twelve receiving any educational services	25442
from the district, except that the following categories of	25443
students shall not be included in the determination:	25444
(a) Students enrolled in adult education classes;	25445
(b) Adjacent or other district students enrolled in the	25446
district under an open enrollment policy pursuant to section	25447
3313.98 of the Revised Code;	25448
(c) Students receiving services in the district pursuant to a	25449
compact, cooperative education agreement, or a contract, but who	25450
are entitled to attend school in another district pursuant to	25451
section 3313.64 or 3313.65 of the Revised Code;	25452
(d) Students for whom tuition is payable pursuant to sections	25453
3317.081 and 3323.141 of the Revised Code.	25454
(2) On an FTE basis, the number of students entitled to	25455
attend school in the district pursuant to section 3313.64 or	25456
3313.65 of the Revised Code, but receiving educational services in	25457
grades kindergarten through twelve from one or more of the	25458
following entities:	25459
(a) A community school pursuant to Chapter 3314. of the	25460
Revised Code, including any participation in a college pursuant to	25461
Chapter 3365. of the Revised Code while enrolled in such community	25462
school;	25463
(b) An alternative school pursuant to sections 3313.974 to	25464
3313.979 of the Revised Code as described in division (I)(2)(a) or	25465
(b) of this section;	25466
(c) A college pursuant to Chapter 3365. of the Revised Code,	25467
except when the student is enrolled in the college while also	25468
enrolled in a community school pursuant to Chapter 3314. of the	25469

Revised Code;	25470
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	25471 25472 25473
(e) An educational service center or cooperative education district;	25474 25475
(f) Another school district under a cooperative education agreement, compact, or contract.	25476 25477
(3) <del>One-fourth</del> <u>Ten per cent</u> of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;	25478 25479 25480 25481 25482 25483 25484 25485
(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.	25486 25487 25488 25489 25490 25491 25492
(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:	25493 25494 25495 25496
(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;	25497 25498 25499 25500

(2) The number of all handicapped preschool children enrolled 25501  
as of the first day of December in classes in the district that 25502  
are eligible for approval ~~by the state board of education~~ under 25503  
division (B) of section 3317.05 of the Revised Code and the number 25504  
of those classes, which shall be reported not later than the 25505  
fifteenth day of December, in accordance with rules adopted under 25506  
that section; 25507

(3) The number of children entitled to attend school in the 25508  
district pursuant to section 3313.64 or 3313.65 of the Revised 25509  
Code who are participating in a pilot project scholarship program 25510  
established under sections 3313.974 to 3313.979 of the Revised 25511  
Code as described in division (I)(2)(a) or (b) of this section, 25512  
are enrolled in a college under Chapter 3365. of the Revised Code, 25513  
except when the student is enrolled in the college while also 25514  
enrolled in a community school pursuant to Chapter 3314. of the 25515  
Revised Code, are enrolled in an adjacent or other school district 25516  
under section 3313.98 of the Revised Code, are enrolled in a 25517  
community school established under Chapter 3314. of the Revised 25518  
Code, including any participation in a college pursuant to Chapter 25519  
3365. of the Revised Code while enrolled in such community school, 25520  
or are participating in a program operated by a county MR/DD board 25521  
or a state institution; 25522

(4) The number of pupils enrolled in joint vocational 25523  
schools; 25524

(5) The average daily membership of handicapped children 25525  
reported under division (A)(1) or (2) of this section receiving 25526  
special education services for the category one handicap described 25527  
in division (A) of section 3317.013 of the Revised Code; 25528

(6) 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 two handicaps described in 25531

division (B) of section 3317.013 of the Revised Code;	25532
(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	25533 25534 25535 25536
(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	25537 25538 25539 25540
(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	25541 25542 25543 25544
(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;	25545 25546 25547 25548
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center;	25549 25550 25551 25552 25553 25554
(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center;	25555 25556 25557 25558 25559 25560
(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses,	25561 25562

reported in accordance with rules adopted by the department of 25563  
education; 25564

(14)(a) The number of children, other than handicapped 25565  
preschool children, the district placed with a county MR/DD board 25566  
in fiscal year 1998; 25567

(b) The number of handicapped children, other than 25568  
handicapped preschool children, placed with a county MR/DD board 25569  
in the current fiscal year to receive special education services 25570  
for the category one handicap described in division (A) of section 25571  
3317.013 of the Revised Code; 25572

(c) The number of handicapped children, other than 25573  
handicapped preschool children, placed with a county MR/DD board 25574  
in the current fiscal year to receive special education services 25575  
for category two handicaps described in division (B) of section 25576  
3317.013 of the Revised Code; 25577

(d) The number of handicapped children, other than 25578  
handicapped preschool children, placed with a county MR/DD board 25579  
in the current fiscal year to receive special education services 25580  
for category three handicaps described in division (C) of section 25581  
3317.013 of the Revised Code; 25582

(e) The number of handicapped children, other than 25583  
handicapped preschool children, placed with a county MR/DD board 25584  
in the current fiscal year to receive special education services 25585  
for category four handicaps described in division (D) of section 25586  
3317.013 of the Revised Code; 25587

(f) The number of handicapped children, other than 25588  
handicapped preschool children, placed with a county MR/DD board 25589  
in the current fiscal year to receive special education services 25590  
for the category five handicap described in division (E) of 25591  
section 3317.013 of the Revised Code; 25592

(g) The number of handicapped children, other than 25593

handicapped preschool children, placed with a county MR/DD board 25594  
in the current fiscal year to receive special education services 25595  
for category six handicaps described in division (F) of section 25596  
3317.013 of the Revised Code. 25597

(C)(1) Except as otherwise provided in this section for 25598  
kindergarten students, the average daily membership in divisions 25599  
(B)(1) to (12) of this section shall be based upon the number of 25600  
full-time equivalent students. The state board of education shall 25601  
adopt rules defining full-time equivalent students and for 25602  
determining the average daily membership therefrom for the 25603  
purposes of divisions (A), (B), and (D) of this section. 25604

(2) A student enrolled in a community school established 25605  
under Chapter 3314. of the Revised Code shall be counted in the 25606  
formula ADM and, if applicable, the category one, two, three, 25607  
four, five, or six special education ADM of the school district in 25608  
which the student is entitled to attend school under section 25609  
3313.64 or 3313.65 of the Revised Code for the same proportion of 25610  
the school year that the student is counted in the enrollment of 25611  
the community school for purposes of section 3314.08 of the 25612  
Revised Code. 25613

(3) No child shall be counted as more than a total of one 25614  
child in the sum of the average daily memberships of a school 25615  
district under division (A), divisions (B)(1) to (12), or division 25616  
(D) of this section, except as follows: 25617

(a) A child with a handicap described in section 3317.013 of 25618  
the Revised Code may be counted both in formula ADM and in 25619  
category one, two, three, four, five, or six special education ADM 25620  
and, if applicable, in category one or two vocational education 25621  
ADM. As provided in division (C) of section 3317.02 of the Revised 25622  
Code, such a child shall be counted in category one, two, three, 25623  
four, five, or six special education ADM in the same proportion 25624  
that the child is counted in formula ADM. 25625

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant

to section 3313.98 of the Revised Code; 25657

(c) Students receiving services in the district pursuant to a 25658  
compact, cooperative education agreement, or a contract, but who 25659  
are entitled to attend school in a city, local, or exempted 25660  
village school district whose territory is not part of the 25661  
territory of the joint vocational district; 25662

(d) Students for whom tuition is payable pursuant to sections 25663  
3317.081 and 3323.141 of the Revised Code. 25664

(2) To enable the department of education to obtain the data 25665  
needed to complete the calculation of payments pursuant to this 25666  
chapter, in addition to the formula ADM, each superintendent shall 25667  
report separately the average daily membership included in the 25668  
report under division (D)(1) of this section for each of the 25669  
following categories of students: 25670

(a) Students enrolled in each grade included in the joint 25671  
vocational district schools; 25672

(b) Handicapped children receiving special education services 25673  
for the category one handicap described in division (A) of section 25674  
3317.013 of the Revised Code; 25675

(c) Handicapped children receiving special education services 25676  
for the category two handicaps described in division (B) of 25677  
section 3317.013 of the Revised Code; 25678

(d) Handicapped children receiving special education services 25679  
for category three handicaps described in division (C) of section 25680  
3317.013 of the Revised Code; 25681

(e) Handicapped children receiving special education services 25682  
for category four handicaps described in division (D) of section 25683  
3317.013 of the Revised Code; 25684

(f) Handicapped children receiving special education services 25685  
for the category five handicap described in division (E) of 25686

section 3317.013 of the Revised Code;	25687
(g) Handicapped children receiving special education services	25688
for category six handicaps described in division (F) of section	25689
3317.013 of the Revised Code;	25690
(h) Students receiving category one vocational education	25691
services, described in division (A) of section 3317.014 of the	25692
Revised Code;	25693
(i) Students receiving category two vocational education	25694
services, described in division (B) of section 3317.014 of the	25695
Revised Code.	25696
The superintendent of each joint vocational school district	25697
shall also indicate the city, local, or exempted village school	25698
district in which each joint vocational district pupil is entitled	25699
to attend school pursuant to section 3313.64 or 3313.65 of the	25700
Revised Code.	25701
(E) In each school of each city, local, exempted village,	25702
joint vocational, and cooperative education school district there	25703
shall be maintained a record of school membership, which record	25704
shall accurately show, for each day the school is in session, the	25705
actual membership enrolled in regular day classes. For the purpose	25706
of determining average daily membership, the membership figure of	25707
any school shall not include any pupils except those pupils	25708
described by division (A) of this section. The record of	25709
membership for each school shall be maintained in such manner that	25710
no pupil shall be counted as in membership prior to the actual	25711
date of entry in the school and also in such manner that where for	25712
any cause a pupil permanently withdraws from the school that pupil	25713
shall not be counted as in membership from and after the date of	25714
such withdrawal. There shall not be included in the membership of	25715
any school any of the following:	25716
(1) Any pupil who has graduated from the twelfth grade of a	25717

public high school;	25718
(2) Any pupil who is not a resident of the state;	25719
(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;	25720 25721 25722 25723 25724
(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.	25725 25726 25727 25728 25729 25730 25731
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.	25732 25733 25734 25735 25736
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.	25737 25738 25739 25740 25741 25742 25743
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	25744 25745 25746 25747 25748

is actually open for instruction during the first full school week 25749  
in October by the total number of days the school was actually 25750  
open for instruction during that week. For purposes of state 25751  
funding, "enrolled" persons are only those pupils who are 25752  
attending school, those who have attended school during the 25753  
current school year and are absent for authorized reasons, and 25754  
those handicapped children currently receiving home instruction. 25755

The average daily membership figure of any cooperative 25756  
education school district shall be determined in accordance with 25757  
rules adopted by the state board of education. 25758

(F)(1) If the formula ADM for the first full school week in 25759  
February is at least three per cent greater than that certified 25760  
for the first full school week in the preceding October, the 25761  
superintendent of schools of any city, exempted village, or joint 25762  
vocational school district or educational service center shall 25763  
certify such increase to the superintendent of public instruction. 25764  
Such certification shall be submitted no later than the fifteenth 25765  
day of February. For the balance of the fiscal year, beginning 25766  
with the February payments, the superintendent of public 25767  
instruction shall use the increased formula ADM in calculating or 25768  
recalculating the amounts to be allocated in accordance with 25769  
section 3317.022 or 3317.16 of the Revised Code. In no event shall 25770  
the superintendent use an increased membership certified to the 25771  
superintendent after the fifteenth day of February. 25772

(2) If on the first school day of April the total number of 25773  
classes or units for handicapped preschool children that are 25774  
eligible for approval under division (B) of section 3317.05 of the 25775  
Revised Code exceeds the number of units that have been approved 25776  
for the year under that division, the superintendent of schools of 25777  
any city, exempted village, or cooperative education school 25778  
district or educational service center shall make the 25779  
certifications required by this section for that day. If the ~~state~~ 25780

~~board of education~~ department determines additional units can be 25781  
approved for the fiscal year within any limitations set forth in 25782  
the acts appropriating moneys for the funding of such units, the 25783  
~~board~~ department shall approve additional units for the fiscal 25784  
year on the basis of such average daily membership. For each unit 25785  
so approved, the department ~~of education~~ shall pay an amount 25786  
computed in the manner prescribed in section 3317.052 or 3317.19 25787  
and section 3317.053 of the Revised Code. 25788

(3) If a student attending a community school under Chapter 25789  
3314. of the Revised Code is not included in the formula ADM 25790  
certified for the first full school week of October for the school 25791  
district in which the student is entitled to attend school under 25792  
section 3313.64 or 3313.65 of the Revised Code, the department of 25793  
education shall adjust the formula ADM of that school district to 25794  
include the community school student in accordance with division 25795  
(C)(2) of this section, and shall recalculate the school 25796  
district's payments under this chapter for the entire fiscal year 25797  
on the basis of that adjusted formula ADM. This requirement 25798  
applies regardless of whether the student was enrolled, as defined 25799  
in division (E) of this section, in the community school during 25800  
the first full school week in October. 25801

(G)(1)(a) The superintendent of an institution operating a 25802  
special education program pursuant to section 3323.091 of the 25803  
Revised Code shall, for the programs under such superintendent's 25804  
supervision, certify to the state board of education the average 25805  
daily membership of all handicapped children in classes or 25806  
programs approved annually by the ~~state board~~ department of 25807  
education, in the manner prescribed by the superintendent of 25808  
public instruction. 25809

(b) The superintendent of an institution with vocational 25810  
education units approved under division (A) of section 3317.05 of 25811  
the Revised Code shall, for the units under the superintendent's 25812

supervision, certify to the state board of education the average 25813  
daily membership in those units, in the manner prescribed by the 25814  
superintendent of public instruction. 25815

(2) The superintendent of each county MR/DD board that 25816  
maintains special education classes under section 3317.20 of the 25817  
Revised Code or units approved ~~by the state board of education~~ 25818  
pursuant to section 3317.05 of the Revised Code shall do both of 25819  
the following: 25820

(a) Certify to the state board, in the manner prescribed by 25821  
the board, the average daily membership in classes under section 25822  
3317.20 of the Revised Code for each school district that has 25823  
placed children in the classes; 25824

(b) Certify to the state board, in the manner prescribed by 25825  
the board, the number of all handicapped preschool children 25826  
enrolled as of the first day of December in classes eligible for 25827  
approval under division (B) of section 3317.05 of the Revised 25828  
Code, and the number of those classes. 25829

(3)(a) If on the first school day of April the number of 25830  
classes or units maintained for handicapped preschool children by 25831  
the county MR/DD board that are eligible for approval under 25832  
division (B) of section 3317.05 of the Revised Code is greater 25833  
than the number of units approved for the year under that 25834  
division, the superintendent shall make the certification required 25835  
by this section for that day. 25836

(b) If the ~~state board~~ department determines that additional 25837  
classes or units can be approved for the fiscal year within any 25838  
limitations set forth in the acts appropriating moneys for the 25839  
funding of the classes and units described in division (G)(3)(a) 25840  
of this section, the ~~board~~ department shall approve and fund 25841  
additional units for the fiscal year on the basis of such average 25842  
daily membership. For each unit so approved, the department ~~of~~ 25843

education shall pay an amount computed in the manner prescribed in 25844  
sections 3317.052 and 3317.053 of the Revised Code. 25845

(H) Except as provided in division (I) of this section, when 25846  
any city, local, or exempted village school district provides 25847  
instruction for a nonresident pupil whose attendance is 25848  
unauthorized attendance as defined in section 3327.06 of the 25849  
Revised Code, that pupil's membership shall not be included in 25850  
that district's membership figure used in the calculation of that 25851  
district's formula ADM or included in the determination of any 25852  
unit approved for the district under section 3317.05 of the 25853  
Revised Code. The reporting official shall report separately the 25854  
average daily membership of all pupils whose attendance in the 25855  
district is unauthorized attendance, and the membership of each 25856  
such pupil shall be credited to the school district in which the 25857  
pupil is entitled to attend school under division (B) of section 25858  
3313.64 or section 3313.65 of the Revised Code as determined by 25859  
the department of education. 25860

(I)(1) A city, local, exempted village, or joint vocational 25861  
school district admitting a scholarship student of a pilot project 25862  
district pursuant to division (C) of section 3313.976 of the 25863  
Revised Code may count such student in its average daily 25864  
membership. 25865

(2) In any year for which funds are appropriated for pilot 25866  
project scholarship programs, a school district implementing a 25867  
state-sponsored pilot project scholarship program that year 25868  
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 25869  
count in average daily membership: 25870

(a) All children residing in the district and utilizing a 25871  
scholarship to attend kindergarten in any alternative school, as 25872  
defined in section 3313.974 of the Revised Code; 25873

(b) All children who were enrolled in the district in the 25874

preceding year who are utilizing a scholarship to attend any such 25875  
alternative school. 25876

(J) The superintendent of each cooperative education school 25877  
district shall certify to the superintendent of public 25878  
instruction, in a manner prescribed by the state board of 25879  
education, the applicable average daily memberships for all 25880  
students in the cooperative education district, also indicating 25881  
the city, local, or exempted village district where each pupil is 25882  
entitled to attend school under section 3313.64 or 3313.65 of the 25883  
Revised Code. 25884

**Sec. 3317.032.** (A) Each city, local, exempted village, and 25885  
cooperative education school district, each educational service 25886  
center, each county MR/DD board, and each institution operating a 25887  
special education program pursuant to section 3323.091 of the 25888  
Revised Code shall, in accordance with procedures adopted by the 25889  
state board of education, maintain a record of district membership 25890  
of both of the following: 25891

(1) All handicapped preschool children in units approved 25892  
under division (B) of section 3317.05 of the Revised Code; 25893

(2) All handicapped preschool children who are not in units 25894  
approved ~~by the state board~~ under division (B) of section 3317.05 25895  
of the Revised Code but who are otherwise served by a special 25896  
education program. 25897

(B) The superintendent of each district, board, or 25898  
institution subject to division (A) of this section shall certify 25899  
to the state board of education, in accordance with procedures 25900  
adopted by that board, membership figures of all handicapped 25901  
preschool children whose membership is maintained under division 25902  
(A)(2) of this section. The figures certified under this division 25903  
shall be used in the determination of the ADM used to compute 25904  
funds for educational service center governing boards under 25905

~~division (B) of~~ section 3317.11 of the Revised Code. 25906

**Sec. 3317.05.** (A) For the purpose of calculating payments 25907  
under sections 3317.052 and 3317.053 of the Revised Code, the 25908  
~~state board~~ department of education shall determine for each 25909  
institution, by the last day of January of each year and based on 25910  
information certified under section 3317.03 of the Revised Code, 25911  
the number of vocational education units or fractions of units 25912  
approved by the ~~state board~~ department on the basis of standards 25913  
and rules adopted by the state board of education. As used in this 25914  
division, "institution" means an institution operated by a 25915  
department specified in section 3323.091 of the Revised Code and 25916  
that provides vocational education programs under the supervision 25917  
of the division of vocational education of the department ~~of~~ 25918  
~~education~~ that meet the standards and rules for these programs, 25919  
including licensure of professional staff involved in the 25920  
programs, as established by the state board ~~of education~~. 25921

(B) For the purpose of calculating payments under sections 25922  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 25923  
~~state board~~ department shall determine, based on information 25924  
certified under section 3317.03 of the Revised Code, the following 25925  
by the last day of January of each year for each educational 25926  
service center, for each school district, including each 25927  
cooperative education school district, for each institution 25928  
eligible for payment under section 3323.091 of the Revised Code, 25929  
and for each county MR/DD board: the number of classes operated by 25930  
the school district, service center, institution, or county MR/DD 25931  
board for handicapped preschool children, or fraction thereof, 25932  
including in the case of a district or service center that is a 25933  
funding agent, classes taught by a licensed teacher employed by 25934  
that district or service center under section 3313.841 of the 25935  
Revised Code, approved annually by the ~~state board~~ department on 25936  
the basis of standards and rules adopted by the state board. 25937

(C) For the purpose of calculating payments under sections 25938  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 25939  
~~state board~~ department shall determine, based on information 25940  
certified under section 3317.03 of the Revised Code, the following 25941  
by the last day of January of each year for each school district, 25942  
including each cooperative education school district, for each 25943  
institution eligible for payment under section 3323.091 of the 25944  
Revised Code, and for each county MR/DD board: the number of 25945  
preschool handicapped related services units for child study, 25946  
occupational, physical, or speech and hearing therapy, special 25947  
education supervisors, and special education coordinators approved 25948  
annually by the ~~state board~~ department on the basis of standards 25949  
and rules adopted by the state board. 25950

(D) For the purpose of calculating payments under sections 25951  
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 25952  
department shall determine, based on information certified under 25953  
section 3317.03 of the Revised Code, the following by the last day 25954  
of January of each year for each institution eligible for payment 25955  
under section 3323.091 of the Revised Code: 25956

(1) The number of classes operated by an institution for 25957  
handicapped children other than handicapped preschool children, or 25958  
fraction thereof, approved annually by the ~~state board~~ department 25959  
on the basis of standards and rules adopted by the state board; 25960

(2) The number of related services units for children other 25961  
than handicapped preschool children for child study, occupational, 25962  
physical, or speech and hearing therapy, special education 25963  
supervisors, and special education coordinators approved annually 25964  
by the ~~state board~~ department on the basis of standards and rules 25965  
adopted by the state board. 25966

(E) All of the arithmetical calculations made under this 25967  
section shall be carried to the second decimal place. The total 25968

number of units for school districts, service centers, and 25969  
institutions approved annually ~~by the state board~~ under this 25970  
section shall not exceed the number of units included in the ~~state~~ 25971  
~~board's~~ estimate of cost for these units and appropriations made 25972  
for them by the general assembly. 25973

In the case of units described in division (D)(1) of this 25974  
section operated by institutions eligible for payment under 25975  
section 3323.091 of the Revised Code, the ~~state board~~ department 25976  
shall approve only units for persons who are under age twenty-two 25977  
on the first day of the academic year, but not less than six years 25978  
of age on the thirtieth day of September of that year, except that 25979  
such a unit may include one or more children who are under six 25980  
years of age on the thirtieth day of September if such children 25981  
have been admitted to the unit pursuant to rules of the state 25982  
board. In the case of handicapped preschool units described in 25983  
division (B) of this section ~~operated by county MR/DD boards and~~ 25984  
~~institutions eligible for payment under section 3323.091 of the~~ 25985  
~~Revised Code, the state board~~ department shall approve only 25986  
preschool units for children who are under age six but not less 25987  
than age three on the ~~thirtieth~~ first day of ~~September~~ December of 25988  
the academic year, except that such a unit may include one or more 25989  
children who are under age three or are age six or over on the 25990  
~~thirtieth~~ first day of ~~September~~ December, as reported under 25991  
division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised 25992  
Code, if such children have been admitted to the unit pursuant to 25993  
rules of the state board ~~of education~~. The number of units for 25994  
county MR/DD boards and institutions eligible for payment under 25995  
section 3323.091 of the Revised Code approved ~~by the state board~~ 25996  
under this section shall not exceed the number that can be funded 25997  
with appropriations made for such purposes by the general 25998  
assembly. 25999

No unit shall be approved under divisions (B) to (D) of this 26000

section unless a plan has been submitted and approved under 26001  
Chapter 3323. of the Revised Code. 26002

(F) The department shall approve units or fractions thereof 26003  
for gifted children on the basis of standards and rules adopted by 26004  
the state board. 26005

**Sec. 3317.064.** (A) There is hereby established in the state 26006  
treasury the auxiliary services ~~mobile unit replacement and repair~~ 26007  
reimbursement fund. By the thirtieth day of January of each 26008  
odd-numbered year, the director of job and family services and the 26009  
superintendent of public instruction shall determine the amount of 26010  
any excess moneys in the auxiliary services personnel unemployment 26011  
compensation fund not reasonably necessary for the purposes of 26012  
section 4141.47 of the Revised Code, and shall certify such amount 26013  
to the director of budget and management for transfer to the 26014  
auxiliary services ~~mobile unit replacement and repair~~ 26015  
reimbursement fund. If the director of job and family services and 26016  
the superintendent disagree on such amount, the director of budget 26017  
and management shall determine the amount to be transferred. 26018

(B) Moneys in the auxiliary services ~~mobile unit replacement~~ 26019  
~~and repair~~ reimbursement fund shall be used for the relocation or 26020  
for the replacement and repair of mobile units used to provide the 26021  
services specified in division (E), (F), (G), or (I) of section 26022  
3317.06 of the Revised Code. The state board of education shall 26023  
adopt guidelines and procedures for replacement, repair, and 26024  
relocation of mobile units and the procedures under which a school 26025  
district may apply to receive moneys with which to repair or 26026  
replace or relocate such units. 26027

(C) School districts may apply to the department for moneys 26028  
from the auxiliary services ~~mobile unit replacement and repair~~ 26029  
reimbursement fund for payment of incentives for early retirement 26030  
and severance for school district personnel assigned to provide 26031

services authorized by section 3317.06 of the Revised Code at 26032  
chartered nonpublic schools. The portion of the cost of any early 26033  
retirement or severance incentive for any employee that is paid 26034  
using money from the auxiliary services ~~mobile unit replacement~~ 26035  
~~and repair reimbursement~~ fund shall not exceed the percentage of 26036  
such employee's total service credit that the employee spent 26037  
providing services to chartered nonpublic school students under 26038  
section 3317.06 of the Revised Code. 26039

**Sec. 3317.07.** The state board of education shall establish 26040  
rules for the purpose of distributing subsidies for the purchase 26041  
of school buses under division (E) of section 3317.024 of the 26042  
Revised Code. 26043

No school bus subsidy payments shall be paid to any district 26044  
unless such district can demonstrate that pupils residing more 26045  
than one mile from the school could not be transported without 26046  
such additional aid. 26047

The amount paid to a county MR/DD board for buses purchased 26048  
for transportation of children in special education programs 26049  
operated by the board shall be one hundred per cent of the board's 26050  
net cost. 26051

The amount paid to a school district for buses purchased for 26052  
transportation of handicapped and nonpublic school pupils shall be 26053  
one hundred per cent of the school district's net cost. 26054

The state board of education shall adopt a formula to 26055  
determine the amount of payments that shall be distributed to 26056  
school districts to purchase school buses for pupils other than 26057  
handicapped or nonpublic school pupils. 26058

If any district or MR/DD board obtains bus services for pupil 26059  
transportation pursuant to a contract, such district or board may 26060  
use payments received under this section to defray the costs of 26061

contracting for bus services in lieu of for purchasing buses. 26062

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. 26063  
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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. 26076  
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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 26090  
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state board of education with the clerk of the senate and the 26093  
chief administrative officer of the house of representatives, the 26094  
Ohio legislative service commission, the governor, and the auditor 26095  
of state. The report shall contain an analysis for the prior 26096  
fiscal year on an accrual basis of revenue receipts from all 26097  
sources and expenditures for all purposes for each school district 26098  
~~and each educational service center~~, including each joint 26099  
vocational and cooperative education school district, in the 26100  
state. If any board of education ~~or any educational service center~~ 26101  
~~governing board~~ fails to make the report required in ~~sections~~ 26102  
section 3319.33 ~~and 3319.34~~ of the Revised Code, the 26103  
superintendent of public instruction shall be without authority to 26104  
distribute funds to that school district or educational service 26105  
center pursuant to sections 3317.022 to 3317.0212, 3317.11, 26106  
3317.16, 3317.17, or 3317.19 of the Revised Code until such time 26107  
as the required reports are filed with all specified officers, 26108  
boards, or agencies. 26109

**Sec. 3317.10.** (A) On or before the first day of March of each 26110  
year, the department of job and family services shall certify to 26111  
the state board of education the unduplicated number of children 26112  
ages five through seventeen residing in each school district and 26113  
living in a family that, during the preceding October, had family 26114  
income not exceeding the federal poverty guidelines as defined in 26115  
section 5101.46 of the Revised Code and participated in one of the 26116  
following: 26117

(1) Ohio works first; 26118

(2) The food stamp program; 26119

(3) The medical assistance program, including the healthy 26120  
start program, established under Chapter 5111. of the Revised 26121  
Code; 26122

(4) The children's health insurance program part I 26123

established under section 5101.50 of the Revised Code; 26124

(5) The disability financial assistance program established 26125  
under Chapter 5115. of the Revised Code; 26126

(6) The disability medical assistance program established 26127  
under Chapter 5115. of the Revised Code. 26128

The department of job and family services shall certify this 26129  
information according to the school district of residence for each 26130  
child. Except as provided under division (B) of this section, the 26131  
number of children so certified in any year shall be used by the 26132  
department of education in calculating the distribution of moneys 26133  
for the ensuing fiscal year as provided in section 3317.029 of the 26134  
Revised Code. 26135

(B) Upon the transfer of part of the territory of one school 26136  
district to the territory of one or more other school districts, 26137  
the department of education may adjust the number of children 26138  
certified under division (A) of this section for any district 26139  
gaining or losing territory in such a transfer in order to take 26140  
into account the effect of the transfer on the number of such 26141  
children who reside in the district. Within sixty days of receipt 26142  
of a request for information from the department of education, the 26143  
department of job and family services shall provide any 26144  
information the department of education determines is necessary to 26145  
make such adjustments. The department of education may use the 26146  
adjusted number for any district for the applicable fiscal year, 26147  
in lieu of the number certified for the district for that fiscal 26148  
year under division (A) of this section, in the calculation of the 26149  
distribution of moneys provided in section 3317.029 of the Revised 26150  
Code. 26151

Sec. 3317.11. (A) As used in this section: 26152

(1) "Client school district" means a city or exempted village 26153

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. 26154  
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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. 26157  
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(3) "Total student count" has the same meaning as in section 3301.011 of the Revised Code. 26161  
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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. 26163  
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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: 26175  
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(a) The minimum salary prescribed by section 3317.13 of the Revised Code for the licensed supervisory employee of the 26183  
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governing board; 26185

(b) An amount equal to fifteen per cent of the salary 26186  
prescribed by section 3317.13 of the Revised Code; 26187

(c) An allowance for necessary travel expenses, limited to 26188  
the lesser of two hundred twenty-three dollars and sixteen cents 26189  
per month or two thousand six hundred seventy-eight dollars per 26190  
year. 26191

(2) If a majority of the boards of education, or 26192  
superintendents acting on behalf of the boards, of the local and 26193  
client school districts receiving services from the educational 26194  
service center agree to receive additional supervisory services 26195  
and to pay the cost of a corresponding number of supervisory units 26196  
in excess of the services and units specified in division (B)(1) 26197  
of this section, the service center shall provide the additional 26198  
services as agreed to by the majority of districts to, and the 26199  
department of education shall apportion the cost of the 26200  
corresponding number of additional supervisory units pursuant to 26201  
division (B)(3) of this section among, all of the service center's 26202  
local and client school districts. 26203

(3) The department shall apportion the total cost for all 26204  
supervisory units among the service center's local and client 26205  
school districts based on each district's total student count. The 26206  
department shall deduct each district's apportioned share pursuant 26207  
to division (E) of section 3317.023 of the Revised Code and pay 26208  
the apportioned share to the service center. 26209

(C) The department annually shall deduct from each local and 26210  
client school district of each educational service center, 26211  
pursuant to division (E) of section 3317.023 of the Revised Code, 26212  
and pay to the service center an amount equal to six dollars and 26213  
fifty cents times the school district's total student count. The 26214  
board of education, or the superintendent acting on behalf of the 26215

board, of any local or client school district may agree to pay an 26216  
amount in excess of six dollars and fifty cents per student in 26217  
total student count. If a majority of the boards of education, or 26218  
superintendents acting on behalf of the boards, of the local 26219  
school districts within a service center's territory approve an 26220  
amount in excess of six dollars and fifty cents per student in 26221  
total student count, the department shall deduct the approved 26222  
excess per student amount from all of the local school districts 26223  
within the service center's territory and pay the excess amount to 26224  
the service center. 26225

(D) The department shall pay each educational service center 26226  
the amounts due to it from school districts pursuant to contracts, 26227  
compacts, or agreements under which the service center furnishes 26228  
services to the districts or their students. In order to receive 26229  
payment under this division, an educational service center shall 26230  
furnish either a copy of the contract, compact, or agreement 26231  
clearly indicating the amounts of the payments, or a written 26232  
statement that clearly indicates the payments owed and is signed 26233  
by the superintendent or treasurer of the responsible school 26234  
district. The amounts paid to service centers under this division 26235  
shall be deducted from payments to school districts pursuant to 26236  
division (K)(3) of section 3317.023 of the Revised Code. 26237

(E) Each school district's deduction under this section and 26238  
divisions (E) and (K)(3) of section 3317.023 of the Revised Code 26239  
shall be made from the total payment computed for the district 26240  
under this chapter, after making any other adjustments in that 26241  
payment required by law. 26242

(F)(1) Except as provided in division (F)(2) of this section, 26243  
the department annually shall pay the governing board of each 26244  
educational service center state funds equal to thirty-seven 26245  
dollars times its service center ADM. 26246

(2) The department annually shall pay state funds equal to 26247

forty dollars and fifty-two cents times the service center ADM to 26248  
each educational service center comprising territory that was 26249  
included in the territory of at least three former service centers 26250  
or county school districts, which former centers or districts 26251  
engaged in one or more mergers under section 3311.053 of the 26252  
Revised Code to form the present center. 26253

(G) Each city, exempted village, local, joint vocational, or 26254  
cooperative education school district shall pay to the governing 26255  
board of an educational service center any amounts agreed to for 26256  
each child enrolled in the district who receives special education 26257  
and related services or career-technical education from the 26258  
educational service center, unless these educational services are 26259  
provided pursuant to a contract, compact, or agreement for which 26260  
the department deducts and transfers payments under division (D) 26261  
of this section and division (K)(3) of section 3317.023 of the 26262  
Revised Code. 26263

(H) An educational service center: 26264

(1) May provide special education and career-technical 26265  
education to students in its local or client school districts; 26266

(2) Is eligible for transportation funding under division (J) 26267  
of section 3317.024 of the Revised Code and for state subsidies 26268  
for the purchase of school buses under section 3317.07 of the 26269  
Revised Code; 26270

(3) May apply for and receive gifted education units and 26271  
provide gifted education services to students in its local or 26272  
client school districts; 26273

(4) May conduct driver education for high school students in 26274  
accordance with Chapter 4508. of the Revised Code. 26275

**Sec. 3317.15.** (A) As used in this section, "handicapped" 26276  
child" has the same meaning as in section 3323.01 of the Revised 26277

Code. 26278

(B) Each city, exempted village, local, and joint vocational 26279  
school district shall continue to comply with all requirements of 26280  
federal statutes and regulations, the Revised Code, and rules 26281  
adopted by the state board of education governing education of 26282  
handicapped children, including, but not limited to, requirements 26283  
that handicapped children be served by appropriately licensed or 26284  
certificated education personnel. 26285

(C) Each city, exempted village, local, and joint vocational 26286  
school district shall consult with the educational service center 26287  
serving the county in which the school district is located and, if 26288  
it elects to participate pursuant to section 5126.04 of the 26289  
Revised Code, the county MR/DD board of that county, in providing 26290  
services that serve the best interests of handicapped children. 26291

(D) Each school district shall annually provide documentation 26292  
to the department of education that it employs the appropriate 26293  
number of licensed or certificated personnel to serve the 26294  
district's handicapped students. 26295

(E) The department annually shall audit a sample of school 26296  
districts to ensure that handicapped children are being 26297  
appropriately reported. 26298

(F) Each school district shall provide speech-language 26299  
pathology services at a ratio of one speech-language pathologist 26300  
per two thousand students receiving any educational services from 26301  
the district other than adult education. A speech-language 26302  
pathologist employed on a full-time equivalent basis shall provide 26303  
services to no more than fifty-five school-age handicapped 26304  
children at any one time. Each district shall provide school 26305  
psychological services at a ratio of one school psychologist per 26306  
two thousand five hundred students receiving any educational 26307  
services from the district other than adult education. A district 26308

may obtain the services of speech-language pathologists and school 26309  
psychologists by any means permitted by law, including contracting 26310  
with an educational service center. If, however, a district is 26311  
unable to obtain the services of the required number of 26312  
speech-language pathologists or school psychologists, the district 26313  
may request from the superintendent of public instruction, and the 26314  
superintendent may grant, a waiver of this provision for a period 26315  
of time established by the superintendent. 26316

**Sec. 3317.16.** (A) As used in this section: 26317

(1) "State share percentage" means the percentage calculated 26318  
for a joint vocational school district as follows: 26319

(a) Calculate the state base cost funding amount for the 26320  
district under division (B) of this section. If the district would 26321  
not receive any base cost funding for that year under that 26322  
division, the district's state share percentage is zero. 26323

(b) If the district would receive base cost funding under 26324  
that division, divide that base cost amount by an amount equal to 26325  
the following: 26326

cost-of-doing-business factor X 26327

the formula amount X 26328

~~the greater of formula ADM or~~ 26329

~~three-year average~~ formula ADM 26330

The resultant number is the district's state share 26331  
percentage. 26332

(2) The "total special education weight" for a joint 26333  
vocational school district shall be calculated in the same manner 26334  
as prescribed in division (B)(1) of section 3317.022 of the 26335  
Revised Code. 26336

(3) The "total vocational education weight" for a joint 26337  
vocational school district shall be calculated in the same manner 26338

as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 26339  
26340

(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. 26341  
26342  
26343  
26344

(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. 26345  
26346  
26347

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 26348  
26349

(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: 26350  
26351  
26352

(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) 26353  
26354  
26355  
26356

If the difference obtained under this division is a negative number, the district's computation shall be zero. 26357  
26358

(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: 26359  
26360  
26361  
26362

state share percentage X formula amount X  
total vocational education weight 26363  
26364

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 26365  
26366  
26367  
26368  
26369

connected to the delivery of career-technical programming to 26370  
career-technical students. The department shall require the joint 26371  
vocational school district to report data annually so that the 26372  
department may monitor the district's compliance with the 26373  
requirements regarding the manner in which funding received under 26374  
division (C)(1) of this section may be spent. 26375

(2) The department shall compute for each joint vocational 26376  
school district state funds for vocational education associated 26377  
services costs in accordance with the following formula: 26378

state share percentage X .05 X 26379  
the formula amount X the sum of 26380  
categories one and two vocational 26381  
education ADM 26382

In any fiscal year, a joint vocational school district 26383  
receiving funds under division (C)(2) of this section, or through 26384  
a transfer of funds pursuant to division (L) of section 3317.023 26385  
of the Revised Code, shall spend those funds only for the purposes 26386  
that the department designates as approved for vocational 26387  
education associated services expenses, which may include such 26388  
purposes as apprenticeship coordinators, coordinators for other 26389  
vocational education services, vocational evaluation, and other 26390  
purposes designated by the department. The department may deny 26391  
payment under division (C)(2) of this section to any district that 26392  
the department determines is not operating those services or is 26393  
using funds paid under division (C)(2) of this section, or through 26394  
a transfer of funds pursuant to division (L) of section 3317.023 26395  
of the Revised Code, for other purposes. 26396

(D)(1) The department shall compute and distribute state 26397  
special education and related services additional weighted costs 26398  
funds to each joint vocational school district in accordance with 26399  
the following formula: 26400

state share percentage X formula amount X 26401

total special education weight 26402

(2)(a) As used in this division, the "personnel allowance" 26403  
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 26404  
2004, and 2005. 26405

(b) For the provision of speech services to students, 26406  
including students who do not have individualized education 26407  
programs prepared for them under Chapter 3323. of the Revised 26408  
Code, and for no other purpose, the department shall pay each 26409  
joint vocational school district an amount calculated under the 26410  
following formula: 26411

(formula ADM divided by 2000) X the personnel 26412  
allowance X state share percentage 26413

(3) In any fiscal year, a joint vocational school district 26414  
shall spend for purposes that the department designates as 26415  
approved for special education and related services expenses at 26416  
least the amount calculated as follows: 26417

(cost-of-doing-business factor X formula amount 26418  
X the sum of categories one through 26419  
six special education ADM) + 26420  
(total special education weight X 26421  
formula amount) 26422

The purposes approved by the department for special education 26423  
expenses shall include, but shall not be limited to, compliance 26424  
with state rules governing the education of handicapped children, 26425  
providing services identified in a student's individualized 26426  
education program as defined in section 3323.01 of the Revised 26427  
Code, and the portion of the district's overall administrative and 26428  
overhead costs that are attributable to the district's special 26429  
education student population. 26430

The department shall require joint vocational school 26431  
districts to report data annually to allow for monitoring 26432

compliance with division (D)(3) of this section. The department 26433  
shall annually report to the governor and the general assembly the 26434  
amount of money spent by each joint vocational school district for 26435  
special education and related services. 26436

(E)~~(2)~~(1) If a joint vocational school district's costs for a 26437  
fiscal year for a student in its categories ~~one~~ two through six 26438  
special education ADM exceed the threshold catastrophic cost for 26439  
serving the student, as specified in division (C)(3)(b) of section 26440  
3317.022 of the Revised Code, the district may submit to the 26441  
superintendent of public instruction documentation, as prescribed 26442  
by the superintendent, of all of its costs for that student. Upon 26443  
submission of documentation for a student of the type and in the 26444  
manner prescribed, the department shall pay to the district an 26445  
amount equal to the sum of the following: 26446

(a) One-half of the district's costs for the student in 26447  
excess of the threshold catastrophic cost; 26448

(b) The product of one-half of the district's costs for the 26449  
student in excess of the threshold catastrophic cost multiplied by 26450  
the district's state share percentage. 26451

(2) The district shall only report under division (E)(1) of 26452  
this section, and the department shall only pay for, the costs of 26453  
educational expenses and the related services provided to the 26454  
student in accordance with the student's individualized education 26455  
program. Any legal fees, court costs, or other costs associated 26456  
with any cause of action relating to the student may not be 26457  
included in the amount. 26458

(F) Each fiscal year, the department shall pay each joint 26459  
vocational school district an amount for adult technical and 26460  
vocational education and specialized consultants. 26461

(G)(1) A joint vocational school district's local share of 26462  
special education and related services additional weighted costs 26463

equals: 26464

(1 - state share percentage) X 26465

Total special education weight X 26466

the formula amount 26467

(2) For each handicapped student receiving special education 26468

and related services under an individualized education program, as 26469

defined in section 3323.01 of the Revised Code, at a joint 26470

vocational district, the resident district or, if the student is 26471

enrolled in a community school, the community school shall be 26472

responsible for the amount of any costs of providing those special 26473

education and related services to that student that exceed the sum 26474

of the amount calculated for those services attributable to that 26475

student under divisions (B), (D), (E), and (G)(1) of this section. 26476

Those excess costs shall be calculated by subtracting the sum 26477

of the following from the actual cost to provide special education 26478

and related services to the student: 26479

(a) The product of the formula amount times the 26480

cost-of-doing-business factor; 26481

(b) The product of the formula amount times the applicable 26482

multiple specified in section 3317.013 of the Revised Code; 26483

(c) Any funds paid under division (E) of this section for the 26484

student; 26485

(d) Any other funds received by the joint vocational school 26486

district under this chapter to provide special education and 26487

related services to the student, not including the amount 26488

calculated under division (G)(2) of this section. 26489

(3) The board of education of the joint vocational school 26490

district shall report the excess costs calculated under division 26491

(G)(2) of this section to the department of education. 26492

(4) The department shall pay the amount of excess cost 26493

calculated under division (G)(2) of this section to the joint 26494  
vocational school district and shall deduct that amount as 26495  
provided in division (G)(4)(a) or (b) of this section, as 26496  
applicable: 26497

(a) If the student is not enrolled in a community school, the 26498  
department shall deduct the amount from the account of the 26499  
student's resident district pursuant to division (M) of section 26500  
3317.023 of the Revised Code. 26501

(b) If the student is enrolled in a community school, the 26502  
department shall deduct the amount from the account of the 26503  
community school pursuant to section 3314.083 of the Revised Code. 26504

(H) In any fiscal year, if the total of all payments made to 26505  
a joint vocational school district under divisions (B) to (D) of 26506  
this section and division (R) of section 3317.024 of the Revised 26507  
Code is less than the amount that district received in fiscal year 26508  
1999 under the version of this section in effect that year, plus 26509  
the amount that district received under the version of section 26510  
3317.162 of the Revised Code in effect that year and minus the 26511  
amounts received that year for driver education and adult 26512  
education, the department shall pay the district an additional 26513  
amount equal to the difference between those two amounts. 26514

**Sec. 3318.01.** As used in sections 3318.01 to 3318.20 of the 26515  
Revised Code: 26516

(A) "Ohio school facilities commission" means the commission 26517  
created pursuant to section 3318.30 of the Revised Code. 26518

(B) "Classroom facilities" means rooms in which pupils 26519  
regularly assemble in public school buildings to receive 26520  
instruction and education and such facilities and building 26521  
improvements for the operation and use of such rooms as may be 26522  
needed in order to provide a complete educational program, and may 26523

include space within which a child day-care facility or a 26524  
community resource center is housed. "Classroom facilities" 26525  
includes any space necessary for the operation of a vocational 26526  
education program for secondary students in any school district 26527  
that operates such a program. 26528

(C) "Project" means a project to construct or acquire 26529  
classroom facilities, or to reconstruct or make additions to 26530  
existing classroom facilities, to be used for housing the 26531  
applicable school district and its functions. 26532

(D) "School district" means a local, exempted village, or 26533  
city school district as such districts are defined in Chapter 26534  
3311. of the Revised Code, acting as an agency of state 26535  
government, performing essential governmental functions of state 26536  
government pursuant to sections 3318.01 and 3318.20 of the Revised 26537  
Code. 26538

For purposes of assistance provided under sections 3318.40 to 26539  
3318.45 of the Revised Code, the term "school district" as used in 26540  
this section and in divisions (A), (C), and (D) of section 3318.03 26541  
and in sections 3318.031, ~~3318.033~~, 3318.042, 3318.07, 3318.08, 26542  
3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 26543  
3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the 26544  
Revised Code means a joint vocational school district established 26545  
pursuant to section 3311.18 of the Revised Code. 26546

(E) "School district board" means the board of education of a 26547  
school district. 26548

(F) "Net bonded indebtedness" means the difference between 26549  
the sum of the par value of all outstanding and unpaid bonds and 26550  
notes which a school district board is obligated to pay, any 26551  
amounts the school district is obligated to pay under 26552  
lease-purchase agreements entered into under section 3313.375 of 26553  
the Revised Code, and the par value of bonds authorized by the 26554

electors but not yet issued, the proceeds of which can lawfully be 26555  
used for the project, and the amount held in the sinking fund and 26556  
other indebtedness retirement funds for their redemption. Notes 26557  
issued for school buses in accordance with section 3327.08 of the 26558  
Revised Code, notes issued in anticipation of the collection of 26559  
current revenues, and bonds issued to pay final judgments shall 26560  
not be considered in calculating the net bonded indebtedness. 26561

"Net bonded indebtedness" does not include indebtedness 26562  
arising from the acquisition of land to provide a site for 26563  
classroom facilities constructed, acquired, or added to pursuant 26564  
to sections 3318.01 to 3318.20 of the Revised Code. 26565

(G) "Board of elections" means the board of elections of the 26566  
county containing the most populous portion of the school 26567  
district. 26568

(H) "County auditor" means the auditor of the county in which 26569  
the greatest value of taxable property of such school district is 26570  
located. 26571

(I) "Tax duplicates" means the general tax lists and 26572  
duplicates prescribed by sections 319.28 and 319.29 of the Revised 26573  
Code. 26574

(J) "Required level of indebtedness" means: 26575

(1) In the case of districts in the first percentile, five 26576  
per cent of the district's valuation for the year preceding the 26577  
year in which the controlling board approved the project under 26578  
section 3318.04 of the Revised Code. 26579

(2) In the case of districts ranked in a subsequent 26580  
percentile, five per cent of the district's valuation for the year 26581  
preceding the year in which the controlling board approved the 26582  
project under section 3318.04 of the Revised Code, plus [two 26583  
one-hundredths of one per cent multiplied by (the percentile in 26584  
which the district ranks for the fiscal year preceding the fiscal 26585

year in which the controlling board approved the district's project minus one)]].

(K) "Required percentage of the basic project costs" means one per cent of the basic project costs times the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project.

(L) "Basic project cost" means a cost amount determined in accordance with rules adopted under section 111.15 of the Revised Code by the Ohio school facilities commission. The basic project cost calculation shall take into consideration the square footage and cost per square foot necessary for the grade levels to be housed in the classroom facilities, the variation across the state in construction and related costs, the cost of the installation of site utilities and site preparation, the cost of demolition of all or part of any existing classroom facilities that are abandoned under the project, the cost of insuring the project until it is completed, any contingency reserve amount prescribed by the commission under section 3318.086 of the Revised Code, and the professional planning, administration, and design fees that a district may have to pay to undertake a classroom facilities project.

For a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, the basic project cost calculation for a project under those sections shall also take into account the types of laboratory spaces and program square footages needed for the vocational education programs for high school students offered by the school district.

~~"Basic project cost" also includes the value of classroom facilities authorized in a pre-existing bond issue as described in section 3318.033 of the Revised Code.~~

(M)(1) Except for a joint vocational school district that 26618  
receives assistance under sections 3318.40 to 3318.45 of the 26619  
Revised Code, a "school district's portion of the basic project 26620  
cost" means the amount determined under section 3318.032 of the 26621  
Revised Code. 26622

(2) For a joint vocational school district that receives 26623  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 26624  
a "school district's portion of the basic project cost" means the 26625  
amount determined under division (C) of section 3318.42 of the 26626  
Revised Code. 26627

(N) "Child day-care facility" means space within a classroom 26628  
facility in which the needs of infants, toddlers, preschool 26629  
children, and school children are provided for by persons other 26630  
than the parent or guardian of such children for any part of the 26631  
day, including persons not employed by the school district 26632  
operating such classroom facility. 26633

(O) "Community resource center" means space within a 26634  
classroom facility in which comprehensive services that support 26635  
the needs of families and children are provided by community-based 26636  
social service providers. 26637

(P) "Valuation" means the total value of all property in the 26638  
district as listed and assessed for taxation on the tax 26639  
duplicates. 26640

(Q) "Percentile" means the percentile in which the district 26641  
is ranked pursuant to division (D) of section 3318.011 of the 26642  
Revised Code. 26643

(R) "Installation of site utilities" means the installation 26644  
of a site domestic water system, site fire protection system, site 26645  
gas distribution system, site sanitary system, site storm drainage 26646  
system, and site telephone and data system. 26647

(S) "Site preparation" means the earthwork necessary for 26648  
preparation of the building foundation system, the paved 26649  
pedestrian and vehicular circulation system, playgrounds on the 26650  
project site, and lawn and planting on the project site. 26651

Sec. 3318.024. In the first year of a capital biennium, any 26652  
funds appropriated to the Ohio school facilities commission for 26653  
classroom facilities projects under this chapter in the previous 26654  
capital biennium that were not spent or encumbered, or for which 26655  
an encumbrance has been canceled under section 3318.05 of the 26656  
Revised Code, shall be used by the commission only for projects 26657  
under sections 3318.01 to 3318.20 of the Revised Code, subject to 26658  
appropriation by the general assembly. 26659

In the second year of a capital biennium, any funds 26660  
appropriated to the Ohio school facilities commission for 26661  
classroom facilities projects under this chapter that were not 26662  
spent or encumbered in the first year of the biennium and which 26663  
are in excess of an amount equal to half of the appropriations for 26664  
the capital biennium, or for which an encumbrance has been 26665  
canceled under section 3318.05 of the Revised Code, shall be used 26666  
by the commission only for projects under sections 3318.01 to 26667  
3318.20 of the Revised Code, subject to appropriation by the 26668  
general assembly. 26669

**Sec. 3318.03.** (A) Before conducting an on-site evaluation of 26670  
a school district under section 3318.02 of the Revised Code, at 26671  
the request of the district board of education, the Ohio school 26672  
facilities commission shall examine any classroom facilities needs 26673  
assessment that has been conducted by the district and any master 26674  
plan developed for meeting the facility needs of the district. 26675

(B) Upon conducting the on-site evaluation under section 26676  
3318.02 of the Revised Code, the Ohio school facilities commission 26677

shall make a determination of all of the following: 26678

(1) The needs of the school district for additional classroom 26679  
facilities; 26680

(2) The number of classroom facilities to be included in a 26681  
project, ~~including classroom facilities authorized by a bond issue~~ 26682  
~~described in section 3318.033 of the Revised Code,~~ and the basic 26683  
project cost of constructing, acquiring, reconstructing, or making 26684  
additions to each such facility; 26685

(3) The amount of such cost that the school district can 26686  
supply from available funds, by the issuance of bonds previously 26687  
authorized by the electors of the school district the proceeds of 26688  
which can lawfully be used for the project, ~~including bonds~~ 26689  
~~authorized by the district's electors as described in section~~ 26690  
~~3318.033 of the Revised Code,~~ and by the issuance of bonds under 26691  
section 3318.05 of the Revised Code; 26692

(4) The remaining amount of such cost that shall be supplied 26693  
by the state; 26694

(5) The amount of the state's portion to be encumbered in 26695  
accordance with section 3318.11 of the Revised Code in the current 26696  
and subsequent fiscal bienniums from funds appropriated for 26697  
purposes of sections 3318.01 to 3318.20 of the Revised Code. 26698

(C) The commission shall make a determination in favor of 26699  
constructing, acquiring, reconstructing, or making additions to a 26700  
classroom facility only upon evidence that the proposed project 26701  
conforms to sound educational practice, that it is in keeping with 26702  
the orderly process of school district reorganization and 26703  
consolidation, and that the actual or projected enrollment in each 26704  
classroom facility proposed to be included in the project is at 26705  
least three hundred fifty pupils. Exceptions shall be authorized 26706  
only in those districts where topography, sparsity of population, 26707  
and other factors make larger schools impracticable. 26708

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 26740  
following circumstances: 26741

(1) Additional work is needed to correct an oversight or 26742  
deficiency not identified or included in the district's initial 26743  
assessment. 26744

(2) Other conditions exist that, in the opinion of the 26745  
commission, warrant additions or remodeling of the project 26746  
facilities or changes to infrastructure associated with the 26747  
district's project that were not identified in the initial 26748  
assessment and plan. 26749

(C) If the commission decides in favor of providing 26750  
additional assistance to any school district under this section, 26751  
the school district shall be responsible for paying for its 26752  
portion of the cost of the additions, remodeling, or 26753  
infrastructure changes pursuant to section 3318.083 of the Revised 26754  
Code. If, after making a financial evaluation of the school 26755  
district, the commission determines that the school district is 26756  
unable without undue hardship, according to the guidelines adopted 26757  
by the commission, to fund the school district portion of the 26758  
increase, then the state and the school district shall enter into 26759  
an agreement whereby the state shall pay the portion of the cost 26760  
increase attributable to the school district which is determined 26761  
to be in excess of any local resources available to the district 26762  
and the district shall thereafter reimburse the state. The 26763  
commission shall establish the district's schedule for reimbursing 26764  
the state, which shall not extend beyond five ten years. The 26765  
commission may lengthen the reimbursement schedule of a school 26766  
district that has entered into an agreement under this section 26767  
prior to the effective date of this amendment as long as the total 26768  
term of that schedule does not extend beyond ten years. Debt 26769  
incurred under this section shall not be included in the 26770  
calculation of the net indebtedness of the school district under 26771

section 133.06 of the Revised Code. 26772

**Sec. 3318.05.** The conditional approval of the Ohio school 26773  
facilities commission for a project shall lapse and the amount 26774  
reserved and encumbered for such project shall be released unless 26775  
the school district board accepts such conditional approval within 26776  
one hundred twenty days following the date of certification of the 26777  
conditional approval to the school district board and the electors 26778  
of the school district vote favorably on both of the propositions 26779  
described in divisions (A) and (B) of this section within one year 26780  
of the date of such certification, except that a school district 26781  
described in division (C) of this section does not need to submit 26782  
the proposition described in division (B) of this section. The 26783  
propositions described in divisions (A) and (B) of this section 26784  
shall be combined in a single proposal. If the district board or 26785  
the district's electors fail to meet such requirements and the 26786  
amount reserved and encumbered for the district's project is 26787  
released, the district shall be given first priority for project 26788  
funding as such funds become available. 26789

(A) On the question of issuing bonds of the school district 26790  
board, for the school district's portion of the basic project 26791  
cost, in an amount equal to the school district's portion of the 26792  
basic project cost ~~less any deduction made under section 3318.033~~ 26793  
~~of the Revised Code and~~ less the amount of the proceeds of any 26794  
securities authorized or to be authorized under division (J) of 26795  
section 133.06 of the Revised Code and dedicated by the school 26796  
district board to payment of the district's portion of the basic 26797  
project cost; and 26798

(B) On the question of levying a tax the proceeds of which 26799  
shall be used to pay the cost of maintaining the classroom 26800  
facilities included in the project. Such tax shall be at the rate 26801  
of not less than one-half mill for each dollar of valuation for a 26802

period of twenty-three years, subject to any extension approved 26803  
under section 3318.061 of the Revised Code. 26804

(C) If a school district has in place a tax levied under 26805  
section 5705.21 of the Revised Code for general ongoing permanent 26806  
improvements ~~of at least two mills for each dollar of valuation~~ 26807  
and the proceeds of such tax can be used for maintenance, the 26808  
school district need not levy the additional tax required under 26809  
division (B) of this section, provided the school district board 26810  
includes in the agreement entered into under section 3318.08 of 26811  
the Revised Code provisions earmarking an amount from the proceeds 26812  
of that permanent improvement tax for maintenance of classroom 26813  
facilities equivalent to the amount of the additional tax and for 26814  
the equivalent number of years otherwise required under this 26815  
section. 26816

(D) Proceeds of the tax to be used for maintenance of the 26817  
classroom facilities under either division (B) or (C) of this 26818  
section shall be deposited into a separate fund established by the 26819  
school district for such purpose. 26820

Sec. 3318.052. At any time after the electors of a school 26821  
district have approved either or both a property tax levied under 26822  
section 5705.21 or 5705.218 of the Revised Code for the purpose of 26823  
general ongoing permanent improvements or a school district income 26824  
tax levied under Chapter 5748. of the Revised Code, the proceeds 26825  
of which, pursuant to the ballot measures approved by the 26826  
electors, are not so restricted that they cannot be used to pay 26827  
the costs of a project or maintaining classroom facilities, the 26828  
school district board may: 26829

(A) Within one year following the date of the certification 26830  
of the conditional approval of the school district's classroom 26831  
facilities project by the Ohio school facilities commission, enter 26832  
into a written agreement with the commission, which may be part of 26833

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: 26834  
26835  
26836

(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; 26837  
26838  
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26840  
26841  
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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. 26843  
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26845  
26846  
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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; 26849  
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(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; 26858  
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26865

(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 26898  
that the school district board has covenanted to levy, collect, 26899  
and appropriate annually, to pay the debt charges on and financing 26900  
costs related to securities issued under this section shall be 26901  
repealed while those securities are outstanding. If such a tax is 26902  
reduced by the electors of the district or by the district board 26903  
while those securities are outstanding, the school district board 26904  
shall continue to levy and collect the tax under the authority of 26905  
the original election authorizing the tax at a rate in each year 26906  
that the board reasonably estimates will produce an amount in that 26907  
year equal to the debt charges on the securities in that year. 26908

No state moneys shall be released for a project to which this 26909  
section applies until the proceeds of the tax securities issued 26910  
under this section that are dedicated for the payment of the 26911  
district portion of the basic project cost of its classroom 26912  
facilities project are first deposited into the district's project 26913  
construction fund. 26914

**Sec. 3318.06.** (A) After receipt of the conditional approval 26915  
of the Ohio school facilities commission, the school district 26916  
board by a majority of all of its members shall, if it desires to 26917  
proceed with the project, declare all of the following by 26918  
resolution: 26919

(1) That by issuing bonds in an amount equal to the school 26920  
district's portion of the basic project cost, ~~including bonds~~ 26921  
~~previously authorized by the district's electors as described in~~ 26922  
~~section 3318.033 of the Revised Code,~~ the district is unable to 26923  
provide adequate classroom facilities without assistance from the 26924  
state; 26925

(2) Unless the school district board has resolved to apply 26926  
the proceeds of a property tax or the proceeds of an income tax, 26927  
or a combination of proceeds from such taxes, as authorized under 26928

section 3318.052 of the Revised Code, that to qualify for such 26929  
state assistance it is necessary to do either of the following: 26930

(a) Levy a tax outside the ten-mill limitation the proceeds 26931  
of which shall be used to pay the cost of maintaining the 26932  
classroom facilities included in the project; 26933

(b) Earmark for maintenance of classroom facilities from the 26934  
proceeds of an existing permanent improvement tax levied under 26935  
section 5705.21 of the Revised Code, if such tax ~~is of at least~~ 26936  
~~two mills for each dollar of valuation and~~ can be used for 26937  
maintenance, an amount equivalent to the amount of the additional 26938  
tax otherwise required under this section and sections 3318.05 and 26939  
3318.08 of the Revised Code. 26940

(3) That the question of any tax levy specified in a 26941  
resolution described in division (A)(2)(a) of this section, if 26942  
required, shall be submitted to the electors of the school 26943  
district at the next general or primary election, if there be a 26944  
general or primary election not less than seventy-five and not 26945  
more than ninety-five days after the day of the adoption of such 26946  
resolution or, if not, at a special election to be held at a time 26947  
specified in the resolution which shall be not less than 26948  
seventy-five days after the day of the adoption of the resolution 26949  
and which shall be in accordance with the requirements of section 26950  
3501.01 of the Revised Code. 26951

Such resolution shall also state that the question of issuing 26952  
bonds of the board shall be combined in a single proposal with the 26953  
question of such tax levy. More than one election under this 26954  
section may be held in any one calendar year. Such resolution 26955  
shall specify both of the following: 26956

(a) That the rate which it is necessary to levy shall be at 26957  
the rate of not less than one-half mill for each one dollar of 26958  
valuation, and that such tax shall be levied for a period of 26959

twenty-three years; 26960

(b) That the proceeds of the tax shall be used to pay the 26961  
cost of maintaining the classroom facilities included in the 26962  
project. 26963

(B) A copy of a resolution adopted under division (A) of this 26964  
section shall after its passage and not less than seventy-five 26965  
days prior to the date set therein for the election be certified 26966  
to the county board of elections. 26967

The resolution of the school district board, in addition to 26968  
meeting other applicable requirements of section 133.18 of the 26969  
Revised Code, shall state that the amount of bonds to be issued 26970  
will be an amount equal to the school district's portion of the 26971  
basic project cost, and state the maximum maturity of the bonds 26972  
which may be any number of years not exceeding the term calculated 26973  
under section 133.20 of the Revised Code as determined by the 26974  
board. In estimating the amount of bonds to be issued, the board 26975  
shall take into consideration the amount of moneys then in the 26976  
bond retirement fund and the amount of moneys to be collected for 26977  
and disbursed from the bond retirement fund during the remainder 26978  
of the year in which the resolution of necessity is adopted. 26979

If the bonds are to be issued in more than one series, the 26980  
resolution may state, in addition to the information required to 26981  
be stated under division (B)(3) of section 133.18 of the Revised 26982  
Code, the number of series, which shall not exceed five, the 26983  
principal amount of each series, and the approximate date each 26984  
series will be issued, and may provide that no series, or any 26985  
portion thereof, may be issued before such date. Upon such a 26986  
resolution being certified to the county auditor as required by 26987  
division (C) of section 133.18 of the Revised Code, the county 26988  
auditor, in calculating, advising, and confirming the estimated 26989  
average annual property tax levy under that division, shall also 26990  
calculate, advise, and confirm by certification the estimated 26991

average property tax levy for each series of bonds to be issued. 26992

Notice of the election shall include the fact that the tax 26993  
levy shall be at the rate of not less than one-half mill for each 26994  
one dollar of valuation for a period of twenty-three years, and 26995  
that the proceeds of the tax shall be used to pay the cost of 26996  
maintaining the classroom facilities included in the project. 26997

If the bonds are to be issued in more than one series, the 26998  
board of education, when filing copies of the resolution with the 26999  
board of elections as required by division (D) of section 133.18 27000  
of the Revised Code, may direct the board of elections to include 27001  
in the notice of election the principal amount and approximate 27002  
date of each series, the maximum number of years over which the 27003  
principal of each series may be paid, the estimated additional 27004  
average property tax levy for each series, and the first calendar 27005  
year in which the tax is expected to be due for each series, in 27006  
addition to the information required to be stated in the notice 27007  
under division (E)(3)(a) to (e) of section 133.18 of the Revised 27008  
Code. 27009

(C)(1) Except as otherwise provided in division (C)(2) of 27010  
this section, the form of the ballot to be used at such election 27011  
shall be: 27012

"A majority affirmative vote is necessary for passage. 27013

Shall bonds be issued by the ..... (here insert name 27014  
of school district) school district to pay the local share of 27015  
school construction under the State of Ohio Classroom Facilities 27016  
Assistance Program in the principal amount of ..... (here 27017  
insert principal amount of the bond issue), to be repaid annually 27018  
over a maximum period of ..... (here insert the maximum 27019  
number of years over which the principal of the bonds may be paid) 27020  
years, and an annual levy of property taxes be made outside the 27021  
ten-mill limitation, estimated by the county auditor to average 27022

over the repayment period of the bond issue ..... (here 27023  
insert the number of mills estimated) mills for each one dollar of 27024  
tax valuation, which amounts to ..... (rate expressed in 27025  
cents or dollars and cents, such as "thirty-six cents" or "\$0.36") 27026  
for each one hundred dollars of tax valuation to pay the annual 27027  
debt charges on the bonds and to pay debt charges on any notes 27028  
issued in anticipation of the bonds?" 27029

and, unless the additional levy 27030  
of taxes is not required pursuant 27031  
to division (C) of section 27032  
3318.05 of the Revised Code, 27033

"Shall an additional levy of taxes be made for a period of 27034  
twenty-three years to benefit the ..... (here insert name 27035  
of school district) school district, the proceeds of which shall 27036  
be used to pay the cost of maintaining the classroom facilities 27037  
included in the project at the rate of ..... (here insert the 27038  
number of mills, which shall not be less than one-half mill) mills 27039  
for each one dollar of valuation? 27040

	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 27045  
series and the board of education so elects, the form of the 27046  
ballot shall be as prescribed in section 3318.062 of the Revised 27047  
Code. If the board of education elects the form of the ballot 27048  
prescribed in that section, it shall so state in the resolution 27049  
adopted under this section. 27050

(D) If it is necessary for the school district to acquire a 27051  
site for the classroom facilities to be acquired pursuant to 27052  
sections 3318.01 to 3318.20 of the Revised Code, the district 27053

board may propose either to issue bonds of the board or to levy a 27054  
tax to pay for the acquisition of such site, and may combine the 27055  
question of doing so with the questions specified in division (B) 27056  
of this section. Bonds issued under this division for the purpose 27057  
of acquiring a site are a general obligation of the school 27058  
district and are Chapter 133. securities. 27059

The form of that portion of the ballot to include the 27060  
question of either issuing bonds or levying a tax for site 27061  
acquisition purposes shall be one of the following: 27062

(1) "Shall bonds be issued by the ..... (here insert 27063  
name of the school district) school district to pay costs of 27064  
acquiring a site for classroom facilities under the State of Ohio 27065  
Classroom Facilities Assistance Program in the principal amount of 27066  
..... (here insert principal amount of the bond issue), to be 27067  
repaid annually over a maximum period of ..... (here insert 27068  
maximum number of years over which the principal of the bonds may 27069  
be paid) years, and an annual levy of property taxes be made 27070  
outside the ten-mill limitation, estimated by the county auditor 27071  
to average over the repayment period of the bond issue ..... 27072  
(here insert number of mills) mills for each one dollar of tax 27073  
valuation, which amount to ..... (here insert rate expressed 27074  
in cents or dollars and cents, such as "thirty-six cents" or 27075  
"\$0.36") for each one hundred dollars of valuation to pay the 27076  
annual debt charges on the bonds and to pay debt charges on any 27077  
notes issued in anticipation of the bonds?" 27078

(2) "Shall an additional levy of taxes outside the ten-mill 27079  
limitation be made for the benefit of the ..... (here insert 27080  
name of the school district) ..... school district for the 27081  
purpose of acquiring a site for classroom facilities in the sum of 27082  
..... (here insert annual amount the levy is to produce) 27083  
estimated by the county auditor to average ..... (here insert 27084  
number of mills) mills for each one hundred dollars of valuation, 27085

for a period of ..... (here insert number of years the millage is to be imposed) years?" 27086  
27087

Where it is necessary to combine the question of issuing bonds of the school district and levying a tax as described in division (B) of this section with the question of issuing bonds of the school district for acquisition of a site, the question specified in that division to be voted on shall be "For the Bond Issues and the Tax Levy" and "Against the Bond Issues and the Tax Levy." 27088  
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27090  
27091  
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27094

Where it is necessary to combine the question of issuing bonds of the school district and levying a tax as described in division (B) of this section with the question of levying a tax for the acquisition of a site, the question specified in that division to be voted on shall be "For the Bond Issue and the Tax Levies" and "Against the Bond Issue and the Tax Levies." 27095  
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27100

Where the school district board chooses to combine the question in division (B) of this section with any of the additional questions described in divisions (A) to (D) of section 3318.056 of the Revised Code, the question specified in division (B) of this section to be voted on shall be "For the Bond Issues and the Tax Levies" and "Against the Bond Issues and the Tax Levies." 27101  
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If a majority of those voting upon a proposition hereunder which includes the question of issuing bonds vote in favor thereof, and if the agreement provided for by section 3318.08 of the Revised Code has been entered into, the school district board may proceed under Chapter 133. of the Revised Code, with the issuance of bonds or bond anticipation notes in accordance with the terms of the agreement. 27108  
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**Sec. 3318.08.** Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 27115  
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3318.45 of the Revised Code, if the requisite favorable vote on 27117  
the election is obtained, or if the school district board has 27118  
resolved to apply the proceeds of a property tax levy or the 27119  
proceeds of an income tax, or a combination of proceeds from such 27120  
taxes, as authorized in section 3318.052 of the Revised Code, the 27121  
Ohio school facilities commission, upon certification to it of 27122  
either the results of the election or the resolution under section 27123  
3318.052 of the Revised Code, shall enter into a written agreement 27124  
with the school district board for the construction and sale of 27125  
the project. In the case of a joint vocational school district 27126  
that receives assistance under sections 3318.40 to 3318.45 of the 27127  
Revised Code, if the school district board of education and the 27128  
school district electors have satisfied the conditions prescribed 27129  
in division (D)(1) of section 3318.41 of the Revised Code, the 27130  
commission shall enter into an agreement with the school district 27131  
board for the construction and sale of the project. In either 27132  
case, the agreement shall include, but need not be limited to, the 27133  
following provisions: 27134

(A) The sale and issuance of bonds or notes in anticipation 27135  
thereof, as soon as practicable after the execution of the 27136  
agreement, in an amount equal to the school district's portion of 27137  
the basic project cost, including ~~any bonds previously authorized~~ 27138  
~~by the district's electors as described in section 3318.033 of the~~ 27139  
~~Revised Code and~~ any securities authorized under division (J) of 27140  
section 133.06 of the Revised Code and dedicated by the school 27141  
district board to payment of the district's portion of the basic 27142  
project cost of the project; provided, that if at that time the 27143  
county treasurer of each county in which the school district is 27144  
located has not commenced the collection of taxes on the general 27145  
duplicate of real and public utility property for the year in 27146  
which the controlling board approved the project, the school 27147  
district board shall authorize the issuance of a first installment 27148  
of bond anticipation notes in an amount specified by the 27149

agreement, which amount shall not exceed an amount necessary to 27150  
raise the net bonded indebtedness of the school district as of the 27151  
date of the controlling board's approval to within five thousand 27152  
dollars of the required level of indebtedness for the preceding 27153  
year. In the event that a first installment of bond anticipation 27154  
notes is issued, the school district board shall, as soon as 27155  
practicable after the county treasurer of each county in which the 27156  
school district is located has commenced the collection of taxes 27157  
on the general duplicate of real and public utility property for 27158  
the year in which the controlling board approved the project, 27159  
authorize the issuance of a second and final installment of bond 27160  
anticipation notes or a first and final issue of bonds. 27161

The combined value of the first and second installment of 27162  
bond anticipation notes or the value of the first and final issue 27163  
of bonds shall be equal to the school district's portion of the 27164  
basic project cost. The proceeds of any such bonds shall be used 27165  
first to retire any bond anticipation notes. Otherwise, the 27166  
proceeds of such bonds and of any bond anticipation notes, except 27167  
the premium and accrued interest thereon, shall be deposited in 27168  
the school district's project construction fund. In determining 27169  
the amount of net bonded indebtedness for the purpose of fixing 27170  
the amount of an issue of either bonds or bond anticipation notes, 27171  
gross indebtedness shall be reduced by moneys in the bond 27172  
retirement fund only to the extent of the moneys therein on the 27173  
first day of the year preceding the year in which the controlling 27174  
board approved the project. Should there be a decrease in the tax 27175  
valuation of the school district so that the amount of 27176  
indebtedness that can be incurred on the tax duplicates for the 27177  
year in which the controlling board approved the project is less 27178  
than the amount of the first installment of bond anticipation 27179  
notes, there shall be paid from the school district's project 27180  
construction fund to the school district's bond retirement fund to 27181  
be applied against such notes an amount sufficient to cause the 27182

net bonded indebtedness of the school district, as of the first 27183  
day of the year following the year in which the controlling board 27184  
approved the project, to be within five thousand dollars of the 27185  
required level of indebtedness for the year in which the 27186  
controlling board approved the project. The maximum amount of 27187  
indebtedness to be incurred by any school district board as its 27188  
share of the cost of the project is either an amount that will 27189  
cause its net bonded indebtedness, as of the first day of the year 27190  
following the year in which the controlling board approved the 27191  
project, to be within five thousand dollars of the required level 27192  
of indebtedness, or an amount equal to the required percentage of 27193  
the basic project costs, whichever is greater. All bonds and bond 27194  
anticipation notes shall be issued in accordance with Chapter 133. 27195  
of the Revised Code, and notes may be renewed as provided in 27196  
section 133.22 of the Revised Code. 27197

(B) The transfer of such funds of the school district board 27198  
available for the project, together with the proceeds of the sale 27199  
of the bonds or notes, except premium, accrued interest, and 27200  
interest included in the amount of the issue, to the school 27201  
district's project construction fund; 27202

(C) For all school districts except joint vocational school 27203  
districts that receive assistance under sections 3318.40 to 27204  
3318.45 of the Revised Code, the following provisions as 27205  
applicable: 27206

(1) If section 3318.052 of the Revised Code applies, the 27207  
earmarking of the proceeds of a tax levied under section 5705.21 27208  
of the Revised Code for general ongoing permanent or under section 27209  
5705.218 of the Revised Code for the purpose of permanent 27210  
improvements, or the proceeds of a school district income tax 27211  
levied under Chapter 5748. of the Revised Code, or the proceeds 27212  
from a combination of those two taxes, in an amount to pay all or 27213  
part of the service charges on bonds issued to pay the school 27214

district portion of the project and an amount equivalent to all or 27215  
part of the tax required under division (B) of section 3318.05 of 27216  
the Revised Code; 27217

(2) If section 3318.052 of the Revised Code does not apply, 27218  
either of the following: 27219

(a) The levy of the tax authorized at the election for the 27220  
payment of maintenance costs, as specified in division (B) of 27221  
section 3318.05 of the Revised Code; 27222

(b) If the school district electors have approved a 27223  
~~continuing tax of at least two mills for each dollar of valuation~~ 27224  
for general ongoing permanent improvements under section 5705.21 27225  
of the Revised Code and that tax can be used for maintenance, the 27226  
earmarking of an amount of the proceeds from such tax for 27227  
maintenance of classroom facilities as specified in division (B) 27228  
of section 3318.05 of the Revised Code. 27229

(D) For joint vocational school districts that receive 27230  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 27231  
provision for deposit of school district moneys dedicated to 27232  
maintenance of the classroom facilities acquired under those 27233  
sections as prescribed in section 3318.43 of the Revised Code; 27234

(E) Dedication of any local donated contribution as provided 27235  
for under section 3318.084 of the Revised Code, including a 27236  
schedule for depositing such moneys applied as an offset of the 27237  
district's obligation to levy the tax described in division (B) of 27238  
section 3318.05 of the Revised Code as required under division 27239  
(D)(2) of section 3318.084 of the Revised Code; 27240

(F) Ownership of or interest in the project during the period 27241  
of construction, which shall be divided between the commission and 27242  
the school district board in proportion to their respective 27243  
contributions to the school district's project construction fund; 27244

(G) Maintenance of the state's interest in the project until 27245

any obligations issued for the project under section 3318.26 of 27246  
the Revised Code are no longer outstanding; 27247

(H) The insurance of the project by the school district from 27248  
the time there is an insurable interest therein and so long as the 27249  
state retains any ownership or interest in the project pursuant to 27250  
division (F) of this section, in such amounts and against such 27251  
risks as the commission shall require; provided, that the cost of 27252  
any required insurance until the project is completed shall be a 27253  
part of the basic project cost; 27254

(I) The certification by the director of budget and 27255  
management that funds are available and have been set aside to 27256  
meet the state's share of the basic project cost as approved by 27257  
the controlling board pursuant to either section 3318.04 or 27258  
division (B)(1) of section 3318.41 of the Revised Code; 27259

(J) Authorization of the school district board to advertise 27260  
for and receive construction bids for the project, for and on 27261  
behalf of the commission, and to award contracts in the name of 27262  
the state subject to approval by the commission; 27263

(K) Provisions for the disbursement of moneys from the school 27264  
district's project account upon issuance by the commission or the 27265  
commission's designated representative of vouchers for work done 27266  
to be certified to the commission by the treasurer of the school 27267  
district board; 27268

(L) Disposal of any balance left in the school district's 27269  
project construction fund upon completion of the project; 27270

(M) Limitations upon use of the project or any part of it so 27271  
long as any obligations issued to finance the project under 27272  
section 3318.26 of the Revised Code are outstanding; 27273

(N) Provision for vesting the state's interest in the project 27274  
to the school district board when the obligations issued to 27275  
finance the project under section 3318.26 of the Revised Code are 27276

outstanding;	27277
(O) Provision for deposit of an executed copy of the agreement in the office of the commission;	27278 27279
(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;	27280 27281 27282 27283 27284 27285 27286
(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;	27287 27288
(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;	27289 27290 27291 27292 27293 27294 27295 27296 27297 27298 27299 27300 27301 27302 27303 27304 27305
(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district	27306 27307

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 27340  
to clear a site for construction of a replacement facility 27341  
included in the district's project. 27342

**Sec. 3318.30.** (A) There is hereby created the Ohio school 27343  
facilities commission. The commission shall administer the 27344  
provision of financial assistance to school districts for the 27345  
acquisition or construction of classroom facilities in accordance 27346  
with sections 3318.01 to 3318.33 of the Revised Code. 27347

The commission is a body corporate and politic, an agency of 27348  
state government and an instrumentality of the state, performing 27349  
essential governmental functions of this state. The carrying out 27350  
of the purposes and the exercise by the commission of its powers 27351  
conferred by sections 3318.01 to 3318.33 of the Revised Code are 27352  
essential public functions and public purposes of the state. The 27353  
commission may, in its own name, sue and be sued, enter into 27354  
contracts, and perform all the powers and duties given to it by 27355  
sections 3318.01 to 3318.33 of the Revised Code, but it does not 27356  
have and shall not exercise the power of eminent domain. In its 27357  
discretion and as it determines appropriate, the commission may 27358  
delegate to any of its members, executive director, or other 27359  
employees any of the commission's powers and duties to carry out 27360  
its functions. 27361

(B) The commission shall consist of seven members, three of 27362  
whom are voting members. The voting members of the commission 27363  
shall be the director of the office of budget and management, the 27364  
director of administrative services, and the superintendent of 27365  
public instruction, or their designees. Of the nonvoting members, 27366  
two shall be members of the senate appointed by the president of 27367  
the senate, and two shall be members of the house of 27368  
representatives appointed by the speaker of the house. Each of the 27369  
appointees of the president, and each of the appointees of the 27370

speaker, shall be members of different political parties. 27371

Nonvoting members shall serve as members of the commission 27372  
during the legislative biennium for which they are appointed, 27373  
except that any such member who ceases to be a member of the 27374  
legislative house from which the member was appointed shall cease 27375  
to be a member of the commission. Each nonvoting member shall be 27376  
appointed within thirty-one days of the end of the term of that 27377  
member's predecessor. Such members may be reappointed. Vacancies 27378  
of nonvoting members shall be filled in the manner provided for 27379  
original appointments. 27380

Members of the commission shall serve without compensation. 27381

After the initial nonvoting members of the commission have 27382  
been appointed, the commission shall meet and organize by electing 27383  
voting members as the chairperson and vice-chairperson of the 27384  
commission, who shall hold their offices until the next 27385  
organizational meeting of the commission. Organizational meetings 27386  
of the commission shall be held at the first meeting of each 27387  
calendar year. At each organizational meeting, the commission 27388  
shall elect from among its voting members a chairperson and 27389  
vice-chairperson, who shall serve until the next annual 27390  
organizational meeting. The commission shall adopt rules pursuant 27391  
to section 111.15 of the Revised Code for the conduct of its 27392  
internal business and shall keep a journal of its proceedings. 27393  
Including the organizational meeting, the commission shall meet at 27394  
least once each calendar quarter. 27395

Two voting members of the commission constitute a quorum, and 27396  
the affirmative vote of two members is necessary for approval of 27397  
any action taken by the commission. A vacancy in the membership of 27398  
the commission does not impair a quorum from exercising all the 27399  
rights and performing all the duties of the commission. Meetings 27400  
of the commission may be held anywhere in the state and shall be 27401  
held in compliance with section 121.22 of the Revised Code. 27402

(C) The commission shall file an annual report of its 27403  
activities and finances with the governor, speaker of the house of 27404  
representatives, president of the senate, and chairpersons of the 27405  
house and senate finance committees. 27406

(D) The commission shall be exempt from the requirements of 27407  
sections 101.82 to 101.87 of the Revised Code. 27408

**Sec. 3318.31.** (A) The Ohio school facilities commission may 27409  
perform any act and ensure the performance of any function 27410  
necessary or appropriate to carry out the purposes of, and 27411  
exercise the powers granted under, Chapter 3318. of the Revised 27412  
Code, including any of the following: 27413

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 27414  
the Revised Code, rules for the administration of programs 27415  
authorized under Chapter 3318. of the Revised Code. 27416

(2) Contract with, retain the services of, or designate, and 27417  
fix the compensation of, such agents, accountants, consultants, 27418  
advisers, and other independent contractors as may be necessary or 27419  
desirable to carry out the programs authorized under Chapter 3318. 27420  
of the Revised Code, or authorize the executive director to 27421  
perform such powers and duties. 27422

(3) Receive and accept any gifts, grants, donations, and 27423  
pledges, and receipts therefrom, to be used for the programs 27424  
authorized under Chapter 3318. of the Revised Code. 27425

(4) Make and enter into all contracts, commitments, and 27426  
agreements, and execute all instruments, necessary or incidental 27427  
to the performance of its duties and the execution of its rights 27428  
and powers under Chapter 3318. of the Revised Code, or authorize 27429  
the executive director to perform such powers and duties. 27430

(B) The commission shall appoint and fix the compensation of 27431  
an executive director who shall serve at the pleasure of the 27432

commission. The executive director shall supervise the operations 27433  
of the commission and perform such other duties as delegated by 27434  
the commission. The executive director also shall employ and fix 27435  
the compensation of such employees as will facilitate the 27436  
activities and purposes of the commission, who shall serve at the 27437  
pleasure of the executive director. The employees of the 27438  
commission shall be exempt from Chapter 4117. of the Revised Code 27439  
and shall not be public employees as defined in section 4117.01 of 27440  
the Revised Code. 27441

(C) The attorney general shall serve as the legal 27442  
representative for the commission and may appoint other counsel as 27443  
necessary for that purpose in accordance with section 109.07 of 27444  
the Revised Code. 27445

**Sec. 3318.37.** (A)(1) As used in this section: 27446

~~(1)~~(a) "Large land area school district" means a school 27447  
district with a territory of greater than three hundred fifty 27448  
square miles in any percentile as determined under section 27449  
3318.011 of the Revised Code. 27450

(b) "Low wealth school district" means a school district in 27451  
the first through fiftieth percentiles as determined under section 27452  
3318.011 of the Revised Code. 27453

~~(2)~~(c) A "school district with an exceptional need for 27454  
immediate classroom facilities assistance" means a low wealth or 27455  
large land area school district with an exceptional need for new 27456  
facilities in order to protect the health and safety of all or a 27457  
portion of its students. ~~School~~ 27458

(2) School districts reasonably expected to be eligible for 27459  
state assistance under sections 3318.01 to 3318.20 of the Revised 27460  
Code within three fiscal years after the year of the application 27461  
for assistance under this section ~~is being considered by the Ohio~~ 27462

~~school facilities commission~~, and school districts that 27463  
participate in the school building assistance expedited local 27464  
partnership program under section 3318.36 of the Revised Code, 27465  
except for such districts described in division (A)(3) of this 27466  
section, shall not be eligible for assistance under this section. 27467

(3) School districts that participate in the school building 27468  
assistance expedited local partnership program under section 27469  
3318.36 of the Revised Code may receive assistance under the 27470  
program established under this section only if the following 27471  
conditions are satisfied: 27472

(a) The district board adopted a resolution certifying its 27473  
intent to participate in the school building assistance expedited 27474  
local partnership program under section 3318.36 of the Revised 27475  
Code prior to September 14, 2000. 27476

(b) The district was selected by the Ohio school facilities 27477  
commission for participation in the school building assistance 27478  
expedited local partnership program under section 3318.36 of the 27479  
Revised Code in the manner prescribed by the commission under that 27480  
section as it existed prior to September 14, 2000. 27481

(B)(1) There is hereby established the exceptional needs 27482  
school facilities assistance program. Under the program, the Ohio 27483  
school facilities commission may set aside from the moneys 27484  
annually appropriated to it for classroom facilities assistance 27485  
projects up to twenty-five per cent for assistance to school 27486  
districts with exceptional needs for immediate classroom 27487  
facilities assistance. 27488

(2)(a) After consulting with education and construction 27489  
experts, the commission shall adopt guidelines for identifying 27490  
school districts with an exceptional need for immediate classroom 27491  
facilities assistance. 27492

(b) The guidelines shall include application forms and 27493

instructions for school districts ~~that believe they have an~~ 27494  
~~exceptional need for immediate classroom facilities to use in~~ 27495  
applying for assistance under this section. 27496

(3) The commission shall evaluate the classroom facilities, 27497  
and the need for replacement classroom facilities from the 27498  
applications received under this section. The commission, 27499  
utilizing the guidelines adopted under division (B)(2)(a) of this 27500  
section, shall prioritize the school districts to be assessed. 27501

Notwithstanding section 3318.02 of the Revised Code, the 27502  
commission may conduct on-site evaluation of the school districts 27503  
prioritized under this section and approve and award funds until 27504  
such time as all funds set aside under division (B)(1) of this 27505  
section have been encumbered ~~under section 3318.04 of the Revised~~ 27506  
Code. However, the commission need not conduct the evaluation of 27507  
facilities if the commission determines that a district's 27508  
assessment conducted under section 3318.36 of the Revised Code is 27509  
sufficient for purposes of this section. 27510

(4) Notwithstanding division (A) of section 3318.05 of the 27511  
Revised Code, the school district's portion of the basic project 27512  
cost under this section shall be the "required percentage of the 27513  
basic project costs," as defined in division (K) of section 27514  
3318.01 of the Revised Code. 27515

(5) Except as otherwise specified in this section, any 27516  
project undertaken with assistance under this section shall comply 27517  
with all provisions of sections 3318.01 to 3318.20 of the Revised 27518  
Code. A school district may receive assistance under sections 27519  
3318.01 to 3318.20 of the Revised Code for the remainder of the 27520  
district's classroom facilities needs as assessed under this 27521  
section when the district is eligible for such assistance pursuant 27522  
to section 3318.02 of the Revised Code, but any classroom facility 27523  
constructed with assistance under this section shall not be 27524  
included in a district's project at that time unless the 27525

commission determines the district has experienced the increased 27526  
enrollment specified in division (B)(1) of section 3318.04 of the 27527  
Revised Code. 27528

(C) No school district shall receive assistance under this 27529  
section for a classroom facility that has been included in the 27530  
discrete part of the district's classroom facilities needs 27531  
identified and addressed in the district's project pursuant to an 27532  
agreement entered into under section 3318.36 of the Revised Code. 27533

**Sec. 3318.41.** (A)(1) The Ohio school facilities commission 27534  
annually shall assess the classroom facilities needs of the number 27535  
of joint vocational school districts that the commission 27536  
reasonably expects to be able to provide assistance to in a fiscal 27537  
year, based on the amount set aside for that fiscal year under 27538  
division (B) of section 3318.40 of the Revised Code and the order 27539  
of priority prescribed in division (B) of section 3318.42 of the 27540  
Revised Code, except that in fiscal year 2004 the commission shall 27541  
conduct at least the five assessments prescribed in division (E) 27542  
of section 3318.40 of the Revised Code. 27543

Upon conducting an assessment of the classroom facilities 27544  
needs of a school district, the commission shall make a 27545  
determination of all of the following: 27546

(a) The number of classroom facilities to be included in a 27547  
project, ~~including classroom facilities authorized by a bond 27548~~  
~~issued described in section 3318.033 of the Revised Code,~~ and the 27549  
basic project cost of acquiring the classroom facilities included 27550  
in the project. The number of facilities and basic project cost 27551  
shall be determined in accordance with the specifications adopted 27552  
under section 3318.311 of the Revised Code except to the extent 27553  
that compliance with such specifications is waived by the 27554  
commission pursuant to the rule of the commission adopted under 27555  
division (F) of section 3318.40 of the Revised Code. 27556

(b) The school district's portion of the basic project cost 27557  
as determined under division (C) of section 3318.42 of the Revised 27558  
Code; 27559

(c) The remaining portion of the basic project cost that 27560  
shall be supplied by the state; 27561

(d) The amount of the state's portion of the basic project 27562  
cost to be encumbered in accordance with section 3318.11 of the 27563  
Revised Code in the current and subsequent fiscal bienniums from 27564  
funds set aside under division (B) of section 3318.40 of the 27565  
Revised Code. 27566

(2) Divisions (A), (C), and (D) of section 3318.03 of the 27567  
Revised Code apply to any project under sections 3318.40 to 27568  
3318.45 of the Revised Code. 27569

(B)(1) If the commission makes a determination under division 27570  
(A) of this section in favor of the acquisition of classroom 27571  
facilities for a project under sections 3318.40 to 3318.45 of the 27572  
Revised Code, such project shall be conditionally approved. Such 27573  
conditional approval shall be submitted to the controlling board 27574  
for approval. The controlling board shall immediately approve or 27575  
reject the commission's determination, conditional approval, the 27576  
amount of the state's portion of the basic project cost, and the 27577  
amount of the state's portion of the basic project cost to be 27578  
encumbered in the current fiscal biennium. In the event of 27579  
approval by the controlling board, the commission shall certify 27580  
the conditional approval to the joint vocational school district 27581  
board of education and shall encumber the approved funds for the 27582  
current fiscal year. 27583

(2) No school district that receives assistance under 27584  
sections 3318.40 to 3318.45 of the Revised Code shall have another 27585  
such project conditionally approved until the expiration of twenty 27586  
years after the school district's prior project was conditionally 27587

approved, unless the school district board demonstrates to the 27588  
satisfaction of the commission that the school district has 27589  
experienced since conditional approval of its prior project an 27590  
exceptional increase in enrollment or program requirements 27591  
significantly above the school district's design capacity under 27592  
that prior project as determined by rule of the commission. Any 27593  
rule adopted by the commission to implement this division shall be 27594  
tailored to address the classroom facilities needs of joint 27595  
vocational school districts. 27596

(C) In addition to generating the amount of the school 27597  
district's portion of the basic project cost as determined under 27598  
division (C) of section 3318.42 of the Revised Code, in order for 27599  
a school district to receive assistance under sections 3318.40 to 27600  
3318.45 of the Revised Code, the school district board shall set 27601  
aside school district moneys for the maintenance of the classroom 27602  
facilities included in the school district's project in the amount 27603  
and manner prescribed in section 3318.43 of the Revised Code. 27604

(D)(1) The conditional approval for a project certified under 27605  
division (B)(1) of this section shall lapse and the amount 27606  
reserved and encumbered for such project shall be released unless 27607  
both of the following conditions are satisfied: 27608

(a) Within one hundred twenty days following the date of 27609  
certification of the conditional approval to the joint vocational 27610  
school district board, the school district board accepts the 27611  
conditional approval and certifies to the commission the school 27612  
district board's plan to generate the school district's portion of 27613  
the basic project cost, as determined under division (C) of 27614  
section 3318.42 of the Revised Code, and to set aside moneys for 27615  
maintenance of the classroom facilities acquired under the 27616  
project, as prescribed in section 3318.43 of the Revised Code. 27617

(b) Within one year following the date of certification of 27618  
the conditional approval to the school district board, the 27619

electors of the school district vote favorably on any ballot 27620  
measures proposed by the school district board to generate the 27621  
school district's portion of the basic project cost. 27622

(2) If the school district board or electors fail to satisfy 27623  
the conditions prescribed in division (D)(1) of this section and 27624  
the amount reserved and encumbered for the school district's 27625  
project is released, the school district shall be given first 27626  
priority over other joint vocational school districts for project 27627  
funding under sections 3318.40 to 3318.45 of the Revised Code as 27628  
such funds become available. 27629

(E) If the conditions prescribed in division (D)(1) of this 27630  
section are satisfied, the commission and the school district 27631  
board shall enter into an agreement as prescribed in section 27632  
3318.08 of the Revised Code and shall proceed with the development 27633  
of plans, cost estimates, designs, drawings, and specifications as 27634  
prescribed in section 3318.091 of the Revised Code. 27635

(F) Costs in excess of those approved by the commission under 27636  
section 3318.091 of the Revised Code shall be payable only as 27637  
provided in sections 3318.042 and 3318.083 of the Revised Code. 27638

(G) Advertisement for bids and the award of contracts for 27639  
construction of any project under sections 3318.40 to 3318.45 of 27640  
the Revised Code shall be conducted in accordance with section 27641  
3318.10 of the Revised Code. 27642

(H) The state funds reserved and encumbered and the funds 27643  
provided by the school district to pay the basic project cost of a 27644  
project under sections 3318.40 to 3318.45 of the Revised Code 27645  
shall be spent simultaneously in proportion to the state's and the 27646  
school district's respective portions of that basic project cost. 27647

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 27648  
Code apply to projects under sections 3318.40 to 3318.45 of the 27649  
Revised Code. 27650

Sec. 3319.01. Except in an island school district, where the 27651  
superintendent of an educational service center otherwise may 27652  
serve as superintendent of the district and except as otherwise 27653  
provided for any cooperative education school district pursuant to 27654  
division (B)(2) of section 3311.52 or division (B)(3) of section 27655  
3311.521 of the Revised Code, the board of education in each 27656  
school district and the governing board of each service center 27657  
shall, at a regular or special meeting held not later than the 27658  
first day of May of the calendar year in which the term of the 27659  
superintendent expires, appoint a person possessed of the 27660  
qualifications provided in this section to act as superintendent, 27661  
for a term not longer than five years beginning the first day of 27662  
August and ending on the thirty-first day of July. Such 27663  
superintendent is, at the expiration of a current term of 27664  
employment, deemed reemployed for a term of one year at the same 27665  
salary plus any increments that may be authorized by the board, 27666  
unless such board, on or before the first day of March of the year 27667  
in which the contract of employment expires, either reemploys the 27668  
superintendent for a succeeding term as provided in this section 27669  
or gives to the superintendent written notice of its intention not 27670  
to reemploy the superintendent. A superintendent may not be 27671  
transferred to any other position during the term of the 27672  
superintendent's employment or reemployment except by mutual 27673  
agreement by the superintendent and the board. If a vacancy occurs 27674  
in the office of superintendent, the board shall appoint a 27675  
superintendent for a term not to exceed five years from the next 27676  
preceding first day of August. 27677

~~Except as otherwise provided in this section, the employment 27678  
or reemployment of a superintendent of a local school district 27679  
shall be only upon the recommendation of the service center 27680  
superintendent, except that a local board of education, by a 27681  
three-fourths vote of its full membership, may, after considering 27682~~

~~two nominations for the position of local superintendent made by 27683  
the service center superintendent, employ or reemploy a person not 27684  
so nominated for such position. 27685~~

A board may at any regular or special meeting held during the 27686  
period beginning on the first day of January of the calendar year 27687  
immediately preceding the year the contract of employment of a 27688  
superintendent expires and ending on the first day of March of the 27689  
year it expires, reemploy such superintendent for a succeeding 27690  
term for not longer than five years, beginning on the first day of 27691  
August immediately following the expiration of the 27692  
superintendent's current term of employment and ending on the 27693  
thirty-first day of July of the year in which such succeeding term 27694  
expires. No person shall be appointed to the office of 27695  
superintendent of a city, or exempted village school district or a 27696  
service center who does not hold a license designated for being a 27697  
superintendent issued under section 3319.22 of the Revised Code, 27698  
unless such person had been employed as a county, city, or 27699  
exempted village superintendent prior to August 1, 1939. No person 27700  
shall be appointed to the office of local superintendent who does 27701  
not hold a license designated for being a superintendent issued 27702  
under section 3319.22 of the Revised Code, unless such person held 27703  
or was qualified to hold the position of executive head of a local 27704  
school district on September 16, 1957. At the time of making such 27705  
appointment or designation of term, such board shall fix the 27706  
compensation of the superintendent, which may be increased or 27707  
decreased during such term, provided such decrease is a part of a 27708  
uniform plan affecting salaries of all employees of the district, 27709  
and shall execute a written contract of employment with such 27710  
superintendent. 27711

Each board shall adopt procedures for the evaluation of its 27712  
superintendent and shall evaluate its superintendent in accordance 27713  
with those procedures. An evaluation based upon such procedures 27714

shall be considered by the board in deciding whether to renew the 27715  
superintendent's contract. The establishment of an evaluation 27716  
procedure shall not create an expectancy of continued employment. 27717  
Nothing in this section shall prevent a board from making the 27718  
final determination regarding the renewal or failure to renew of a 27719  
superintendent's contract. 27720

Termination of a superintendent's contract shall be pursuant 27721  
to section 3319.16 of the Revised Code. 27722

A board may establish vacation leave for its superintendent. 27723  
Upon the superintendent's separation from employment a board that 27724  
has such leave may provide compensation at the superintendent's 27725  
current rate of pay for all lawfully accrued and unused vacation 27726  
leave to the superintendent's credit at the time of separation, 27727  
not to exceed the amount accrued within three years before the 27728  
date of separation. In case of the death of a superintendent, such 27729  
unused vacation leave as the board would have paid to this 27730  
superintendent upon separation shall be paid in accordance with 27731  
section 2113.04 of the Revised Code, or to the superintendent's 27732  
estate. 27733

The superintendent shall be the executive officer for the 27734  
board. ~~Except as otherwise provided in this section for local~~ 27735  
~~school districts, the~~ The superintendent shall direct and assign 27736  
teachers and other employees of the district or service center, 27737  
except as provided in section 3319.04 of the Revised Code; assign 27738  
the pupils to the proper schools and grades, provided that the 27739  
assignment of a pupil to a school outside of the pupil's district 27740  
of residence is approved by the board of the district of residence 27741  
of such pupil; and perform such other duties as the board 27742  
determines. ~~The service center superintendent shall exercise the~~ 27743  
~~responsibilities of this section with regard to the assignment of~~ 27744  
~~pupils and teachers for local school districts under the~~ 27745  
~~supervision of the service center, except that the board of~~ 27746

~~education of a local school district and the governing board of 27747  
the educational service center of which the local district is a 27748  
part may enter into an agreement requiring the local 27749  
superintendent, instead of the superintendent of the educational 27750  
service center, to exercise the responsibilities of this section 27751  
with regard to the assignment of pupils and teachers for the local 27752  
school district. 27753~~

The board of education of any school district may contract 27754  
with the governing board of the educational service center from 27755  
which it otherwise receives services to conduct searches and 27756  
recruitment of candidates for the superintendent position 27757  
authorized under this section. 27758

**Sec. 3319.02.** (A)(1) As used in this section, "other 27759  
administrator" means ~~either~~ any of the following: 27760

(a) Except as provided in division (A)(2) of this section, 27761  
any employee in a position for which a board of education requires 27762  
a license designated by rule of the department of education for 27763  
being an administrator issued under section 3319.22 of the Revised 27764  
Code, including a professional pupil services employee or 27765  
administrative specialist or an equivalent of either one who is 27766  
not employed as a school counselor and spends less than fifty per 27767  
cent of the time employed teaching or working with students; 27768

(b) Any nonlicensed employee whose job duties enable such 27769  
employee to be considered as either a "supervisor" or a 27770  
"management level employee," as defined in section 4117.01 of the 27771  
Revised Code; 27772

(c) A business manager appointed under section 3319.03 of the 27773  
Revised Code. 27774

(2) As used in this section, "other administrator" does not 27775  
include a superintendent, assistant superintendent, principal, or 27776

assistant principal. 27777

(B) The board of education of each school district and the 27778  
governing board of an educational service center may appoint one 27779  
or more assistant superintendents and such other administrators as 27780  
are necessary. An assistant educational service center 27781  
superintendent or service center supervisor employed on a 27782  
part-time basis may also be employed by a local board as a 27783  
teacher. The board of each city, exempted village, and local 27784  
school district shall employ principals for all high schools and 27785  
for such other schools as the board designates, and those boards 27786  
may appoint assistant principals for any school that they 27787  
designate. 27788

(C) In educational service centers and in city ~~and~~, exempted 27789  
village, and local school districts, assistant superintendents, 27790  
principals, assistant principals, and other administrators shall 27791  
only be employed or reemployed in accordance with nominations of 27792  
the superintendent, except that a ~~city or exempted village~~ board 27793  
of education of a school district or the governing board of a 27794  
service center, by a three-fourths vote of its full membership, 27795  
may reemploy any assistant superintendent, principal, assistant 27796  
principal, or other administrator whom the superintendent refuses 27797  
to nominate. ~~In local school districts, assistant superintendents,~~ 27798  
~~principals, assistant principals, and other administrators shall~~ 27799  
~~only be employed or reemployed in accordance with nominations of~~ 27800  
~~the superintendent of the service center of which the local~~ 27801  
~~district is a part, except that a local board of education, by a~~ 27802  
~~three fourths vote of its full membership, may reemploy any~~ 27803  
~~assistant superintendent, principal, assistant principal, or other~~ 27804  
~~administrator whom such superintendent refuses to nominate.~~ 27805

The board of education or governing board shall execute a 27806  
written contract of employment with each assistant superintendent, 27807  
principal, assistant principal, and other administrator it employs 27808

or reemploys. The term of such contract shall not exceed three 27809  
years except that in the case of a person who has been employed as 27810  
an assistant superintendent, principal, assistant principal, or 27811  
other administrator in the district or center for three years or 27812  
more, the term of the contract shall be for not more than five 27813  
years and, unless the superintendent of the district recommends 27814  
otherwise, not less than two years. If the superintendent so 27815  
recommends, the term of the contract of a person who has been 27816  
employed by the district or service center as an assistant 27817  
superintendent, principal, assistant principal, or other 27818  
administrator for three years or more may be one year, but all 27819  
subsequent contracts granted such person shall be for a term of 27820  
not less than two years and not more than five years. When a 27821  
teacher with continuing service status becomes an assistant 27822  
superintendent, principal, assistant principal, or other 27823  
administrator with the district or service center with which the 27824  
teacher holds continuing service status, the teacher retains such 27825  
status in the teacher's nonadministrative position as provided in 27826  
sections 3319.08 and 3319.09 of the Revised Code. 27827

A board of education or governing board may reemploy an 27828  
assistant superintendent, principal, assistant principal, or other 27829  
administrator at any regular or special meeting held during the 27830  
period beginning on the first day of January of the calendar year 27831  
immediately preceding the year of expiration of the employment 27832  
contract and ending on the last day of March of the year the 27833  
employment contract expires. 27834

Except by mutual agreement of the parties thereto, no 27835  
assistant superintendent, principal, assistant principal, or other 27836  
administrator shall be transferred during the life of a contract 27837  
to a position of lesser responsibility. No contract may be 27838  
terminated by a board except pursuant to section 3319.16 of the 27839  
Revised Code. No contract may be suspended except pursuant to 27840

section 3319.17 or 3319.171 of the Revised Code. The salaries and 27841  
compensation prescribed by such contracts shall not be reduced by 27842  
a board unless such reduction is a part of a uniform plan 27843  
affecting the entire district or center. The contract shall 27844  
specify the employee's administrative position and duties as 27845  
included in the job description adopted under division (D) of this 27846  
section, the salary and other compensation to be paid for 27847  
performance of duties, the number of days to be worked, the number 27848  
of days of vacation leave, if any, and any paid holidays in the 27849  
contractual year. 27850

An assistant superintendent, principal, assistant principal, 27851  
or other administrator is, at the expiration of the current term 27852  
of employment, deemed reemployed at the same salary plus any 27853  
increments that may be authorized by the board, unless such 27854  
employee notifies the board in writing to the contrary on or 27855  
before the first day of June, or unless such board, on or before 27856  
the last day of March of the year in which the contract of 27857  
employment expires, either reemploys such employee for a 27858  
succeeding term or gives written notice of its intention not to 27859  
reemploy the employee. The term of reemployment of a person 27860  
reemployed under this paragraph shall be one year, except that if 27861  
such person has been employed by the school district or service 27862  
center as an assistant superintendent, principal, assistant 27863  
principal, or other administrator for three years or more, the 27864  
term of reemployment shall be two years. 27865

(D)(1) Each board shall adopt procedures for the evaluation 27866  
of all assistant superintendents, principals, assistant 27867  
principals, and other administrators and shall evaluate such 27868  
employees in accordance with those procedures. The evaluation 27869  
based upon such procedures shall be considered by the board in 27870  
deciding whether to renew the contract of employment of an 27871  
assistant superintendent, principal, assistant principal, or other 27872

administrator. 27873

(2) The evaluation shall measure each assistant 27874  
superintendent's, principal's, assistant principal's, and other 27875  
administrator's effectiveness in performing the duties included in 27876  
the job description and the evaluation procedures shall provide 27877  
for, but not be limited to, the following: 27878

(a) Each assistant superintendent, principal, assistant 27879  
principal, and other administrator shall be evaluated annually 27880  
through a written evaluation process. 27881

(b) The evaluation shall be conducted by the superintendent 27882  
or designee. 27883

(c) In order to provide time to show progress in correcting 27884  
the deficiencies identified in the evaluation process, the 27885  
evaluation process shall be completed as follows: 27886

(i) In any school year that the employee's contract of 27887  
employment is not due to expire, at least one evaluation shall be 27888  
completed in that year. A written copy of the evaluation shall be 27889  
provided to the employee no later than the end of the employee's 27890  
contract year as defined by the employee's annual salary notice. 27891

(ii) In any school year that the employee's contract of 27892  
employment is due to expire, at least a preliminary evaluation and 27893  
at least a final evaluation shall be completed in that year. A 27894  
written copy of the preliminary evaluation shall be provided to 27895  
the employee at least sixty days prior to any action by the board 27896  
on the employee's contract of employment. The final evaluation 27897  
shall indicate the superintendent's intended recommendation to the 27898  
board regarding a contract of employment for the employee. A 27899  
written copy of the evaluation shall be provided to the employee 27900  
at least five days prior to the board's acting to renew or not 27901  
renew the contract. 27902

(3) Termination of an assistant superintendent, principal, 27903

assistant principal, or other administrator's contract shall be 27904  
pursuant to section 3319.16 of the Revised Code. Suspension of any 27905  
such employee shall be pursuant to section 3319.17 or 3319.171 of 27906  
the Revised Code. 27907

(4) Before taking action to renew or nonrenew the contract of 27908  
an assistant superintendent, principal, assistant principal, or 27909  
other administrator under this section and prior to the last day 27910  
of March of the year in which such employee's contract expires, 27911  
the board shall notify each such employee of the date that the 27912  
contract expires and that the employee may request a meeting with 27913  
the board. Upon request by such an employee, the board shall grant 27914  
the employee a meeting in executive session. In that meeting, the 27915  
board shall discuss its reasons for considering renewal or 27916  
nonrenewal of the contract. The employee shall be permitted to 27917  
have a representative, chosen by the employee, present at the 27918  
meeting. 27919

(5) The establishment of an evaluation procedure shall not 27920  
create an expectancy of continued employment. Nothing in division 27921  
(D) of this section shall prevent a board from making the final 27922  
determination regarding the renewal or nonrenewal of the contract 27923  
of any assistant superintendent, principal, assistant principal, 27924  
or other administrator. However, if a board fails to provide 27925  
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 27926  
section, or if the board fails to provide at the request of the 27927  
employee a meeting as prescribed in division (D)(4) of this 27928  
section, the employee automatically shall be reemployed at the 27929  
same salary plus any increments that may be authorized by the 27930  
board for a period of one year, except that if the employee has 27931  
been employed by the district or service center as an assistant 27932  
superintendent, principal, assistant principal, or other 27933  
administrator for three years or more, the period of reemployment 27934  
shall be for two years. 27935

(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 27967  
manager who shall serve ~~for a term not to exceed four years unless~~ 27968  
~~earlier removed for cause pursuant to a contract in accordance~~ 27969  
with section 3319.02 of the Revised Code. A vacancy in this office 27970  
~~shall be filled only for the unexpired term thereof.~~ In the 27971  
discharge of all ~~his~~ official duties, the business manager may be 27972  
directly responsible to the board, or to the superintendent of 27973  
schools, as the board directs at the time of ~~election~~ appointment 27974  
to the position. Where such business manager is responsible to the 27975  
superintendent ~~he~~ the business manager shall be appointed by the 27976  
superintendent and confirmed by the board. 27977

No board of education shall ~~elect~~ appoint or confirm as 27978  
business manager any person who does not hold a valid business 27979  
manager's license issued under section 3301.074 of the Revised 27980  
Code. If the business manager fails to maintain a valid license, 27981  
~~he~~ the business manager shall be removed by the board. 27982

**Sec. 3319.07.** (A) The board of education of each city, 27983  
exempted village, ~~and~~ local, and joint vocational school district 27984  
shall employ the teachers of the public schools of their 27985  
respective districts. 27986

The governing board of each educational service center may 27987  
employ special instruction teachers, special education teachers, 27988  
and teachers of academic courses in which there are too few 27989  
students in each of the constituent local school districts or in 27990  
city or exempted village school districts entering into agreements 27991  
pursuant to section 3313.843 of the Revised Code to warrant each 27992  
district's employing teachers for those courses. 27993

When any board makes appointments of teachers, the teachers 27994  
in the employ of the board shall be considered before new teachers 27995  
are chosen in their stead. In ~~city, exempted village, and joint~~ 27996  
~~vocational~~ all school districts and in service centers no teacher 27997

shall be employed unless such person is nominated by the 27998  
superintendent of such district or center. Such board, by a 27999  
three-fourths vote of its full membership, may re-employ any 28000  
teacher whom the superintendent refuses to appoint. ~~In local 28001  
school districts, no teacher shall be employed, except as provided 28002  
in division (B) of this section, unless nominated by the 28003  
superintendent of the service center of which such local school 28004  
district is a part; by a majority vote of the full membership of 28005  
such board, the board of education of any local school district 28006  
may, after considering two nominations for any position made by 28007  
the service center superintendent, reemploy a person not so 28008  
nominated for such position. 28009~~

(B) The board of education of a ~~local~~ any school district ~~and 28010  
the board of education of the county school district of which the 28011  
local district is a part may enter into an agreement authorizing 28012  
the superintendent of the local district, in lieu of the 28013  
superintendent of the county district, to make nominations under 28014  
this section for the employment of teachers in the local district. 28015  
While such an agreement is in effect the board of education of the 28016  
local district shall not employ any teacher unless the person is 28017  
nominated by the superintendent of the district except that, by a 28018  
three-fourths vote of its full membership, it may re-employ any 28019  
teacher whom the superintendent refuses to nominate may contract 28020  
with the governing board of the educational service center from 28021  
which it otherwise receives services to conduct searches and 28022  
recruitment of candidates for teacher positions. 28023~~

**Sec. 3319.19.** (A) Except as provided in division (D) of this 28024  
section or division (A)(2) of section 3313.37 of the Revised Code, 28025  
upon request, the board of county commissioners shall provide and 28026  
equip offices in the county for the use of the superintendent of 28027  
an educational service center, and shall provide heat, light, 28028  
water, and janitorial services for such offices. Such offices 28029

shall be the permanent headquarters of the superintendent and 28030  
shall be used by the governing board of the service center when it 28031  
is in session. Except as provided in division (B) of this section, 28032  
such offices shall be located in the county seat or, upon the 28033  
approval of the governing board, may be located outside of the 28034  
county seat. 28035

(B) In the case of a service center formed under section 28036  
3311.053 or 3311.059 of the Revised Code, the governing board 28037  
shall designate the site of its offices. Except as provided in 28038  
division (D) of this section or division (A)(2) of section 3313.37 28039  
of the Revised Code, the board of county commissioners of the 28040  
county in which the designated site is located shall provide and 28041  
equip the offices as under division (A) of this section, but the 28042  
costs of such offices and equipment shall be apportioned among the 28043  
boards of county commissioners of all counties having any 28044  
territory in the area under the control of the governing board, 28045  
according to the proportion of local school district pupils under 28046  
the supervision of such board residing in the respective counties. 28047  
Where there is a dispute as to the amount any board of county 28048  
commissioners is required to pay, the probate judge of the county 28049  
in which the greatest number of pupils under the supervision of 28050  
the governing board reside shall apportion such costs among the 28051  
boards of county commissioners and notify each such board of its 28052  
share of the costs. 28053

(C) ~~Not~~ As used in division (C) of this section, in the case 28054  
of a building, facility, or office space that a board of county 28055  
commissioners leases or rents, "actual cost per square foot" means 28056  
all cost on a per square foot basis incurred by the board under 28057  
the lease or rental agreement. In the case of a building, 28058  
facility, or office space that the board owns in fee simple, 28059  
"actual cost per square foot" means the fair rental value on a per 28060  
square foot basis of the building, facility, or office space 28061

either as compared to a similarly situated building, facility, or 28062  
office space in the general vicinity or as calculated under a 28063  
formula that accounts for depreciation, amortization of 28064  
improvements, and other reasonable factors, including, but not 28065  
limited to, parking space and other amenities. 28066

Not later than the thirty-first day of March of 2002, 2003, 28067  
2004, and 2005 a board of county commissioners required to provide 28068  
or equip offices pursuant to division (A) or (B) of this section 28069  
shall make a written estimate of the total cost it will incur for 28070  
the ensuing fiscal year to provide and equip the offices and to 28071  
provide heat, light, water, and janitorial services for such 28072  
offices. The total estimate of cost shall include: 28073

(1) The total square feet of space to be utilized by the 28074  
educational service center; 28075

(2) The total square feet of any common areas that should be 28076  
reasonably allocated to the center and the methodology for making 28077  
this allocation; 28078

(3) The actual cost per square foot for both the space 28079  
utilized by and the common area allocated to the center; 28080

(4) An explanation of the methodology used to determine the 28081  
actual cost per square foot ~~cost~~; 28082

(5) The estimated cost of providing heat, light, and water, 28083  
including an explanation of how these costs were determined; 28084

(6) The estimated cost of providing janitorial services 28085  
including an explanation of the methodology used to determine this 28086  
cost; 28087

(7) Any other estimated costs that the board anticipates it 28088  
will occur and a detailed explanation of the costs and the 28089  
rationale used to determine such costs. 28090

A copy of the total estimate of costs under this division 28091

shall be sent to the superintendent of the educational service 28092  
center not later than the fifth day of April. The superintendent 28093  
shall review the total estimate and shall notify the board of 28094  
county commissioners not later than twenty days after receipt of 28095  
the estimate of either agreement with the estimate or any specific 28096  
objections to the estimates and the reasons for the objections. If 28097  
the superintendent agrees with the estimate, it shall become the 28098  
final total estimate of cost. Failure of the superintendent to 28099  
make objections to the estimate by the twentieth day after receipt 28100  
of it shall be deemed to mean that the superintendent is in 28101  
agreement with the estimate. 28102

If the superintendent provides specific objections to the 28103  
board of county commissioners, the board shall review the 28104  
objections and may modify the original estimate and shall send a 28105  
revised total estimate to the superintendent within ten days after 28106  
the receipt of the superintendent's objections. The superintendent 28107  
shall respond to the revised estimate within ten days after its 28108  
receipt. If the superintendent agrees with it, it shall become the 28109  
final total estimated cost. If the superintendent fails to respond 28110  
within the required time, the superintendent shall be deemed to 28111  
have agreed with the revised estimate. If the superintendent 28112  
disagrees with the revised estimate, the superintendent shall send 28113  
specific objections to the county commissioners. 28114

If a superintendent has sent specific objections to the 28115  
revised estimate within the required time, the probate judge of 28116  
the county which has the greatest number of resident local school 28117  
district pupils under the supervision of the educational service 28118  
center shall determine the final estimated cost and certify this 28119  
amount to the superintendent and the board of county commissioners 28120  
prior to the first day of July. 28121

(D)(1) A board of county commissioners shall be responsible 28122  
for the following percentages of the final total estimated cost 28123

established by division (C) of this section:	28124
(a) Eighty per cent for fiscal year 2003;	28125
(b) Sixty per cent for fiscal year 2004;	28126
(c) Forty per cent for fiscal year 2005;	28127
(d) Twenty per cent for fiscal year 2006.	28128
In fiscal years 2003, 2004, 2005, and 2006 the educational	28129
service center shall be responsible for the remainder of any costs	28130
in excess of the amounts specified in division (D)(1)(a),(b), <del>or</del>	28131
(c), <u>or (d)</u> of this section, as applicable, associated with the	28132
provision and equipment of offices for the educational service	28133
center and for provision of heat, light, water, and janitorial	28134
services for such offices, including any unanticipated or	28135
unexpected increases in the costs beyond the final estimated cost	28136
amount.	28137
Beginning in fiscal year 2007, no board of county	28138
commissioners shall have any obligation to provide and equip	28139
offices for an educational service center or to provide heat,	28140
light, water, or janitorial services for such offices.	28141
(2) Nothing in this section shall prohibit the board of	28142
county commissioners and the governing board of an educational	28143
service center from entering into a contract for providing and	28144
equipping offices for the use of an educational service center and	28145
for providing heat, light, water, and janitorial services for such	28146
offices. The term of any such contract shall not exceed a period	28147
of four years and may be renewed for additional periods not to	28148
exceed four years. Any such contract shall supersede the	28149
provisions of division (D)(1) of this section and no educational	28150
service center may be charged, at any time, any additional amount	28151
for the county's provision of an office and equipment, heat,	28152
light, water, and janitorial services beyond the amount specified	28153
in such contract.	28154

(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. 28218

Each professional development committee shall consist of at 28219  
least three classroom teachers employed by the district, one 28220  
principal employed by the district, and one other employee of the 28221  
district appointed by the district superintendent. For committees 28222  
with a building-level scope, the teacher and principal members 28223  
shall be assigned to that building, and the teacher members shall 28224  
be elected by majority vote of the classroom teachers assigned to 28225  
that building. For committees with a district-level scope, the 28226  
teacher members shall be elected by majority vote of the classroom 28227  
teachers of the district, and the principal member shall be 28228  
elected by a majority vote of the principals of the district, 28229  
unless there are two or fewer principals employed by the district, 28230  
in which case the one or two principals employed shall serve on 28231  
the committee. If a committee has a particular grade or age level 28232  
scope, the teacher members shall be licensed to teach such grade 28233  
or age levels, and shall be elected by majority vote of the 28234  
classroom teachers holding such a license and the principal shall 28235  
be elected by all principals serving in buildings where any such 28236  
teachers serve. The district superintendent shall appoint a 28237  
replacement to fill any vacancy that occurs on a professional 28238  
development committee, except in the case of vacancies among the 28239  
elected classroom teacher members, which shall be filled by vote 28240  
of the remaining members of the committee so selected. 28241

Terms of office on professional development committees shall 28242  
be prescribed by the district board establishing the committees. 28243  
The conduct of elections for members of professional development 28244  
committees shall be prescribed by the district board establishing 28245  
the committees. A professional development committee may include 28246  
additional members, except that the majority of members on each 28247  
such committee shall be classroom teachers employed by the 28248  
district. Any member appointed to fill a vacancy occurring prior 28249

to the expiration date of the term for which a predecessor was 28250  
appointed shall hold office as a member for the remainder of that 28251  
term. 28252

The initial meeting of any professional development 28253  
committee, upon election and appointment of all committee members, 28254  
shall be called by a member designated by the district 28255  
superintendent. At this initial meeting, the committee shall 28256  
select a chairperson and such other officers the committee deems 28257  
necessary, and shall adopt rules for the conduct of its meetings. 28258  
Thereafter, the committee shall meet at the call of the 28259  
chairperson or upon the filing of a petition with the district 28260  
superintendent signed by a majority of the committee members 28261  
calling for the committee to meet. 28262

(3) In the case of a school district in which an exclusive 28263  
representative has been established pursuant to Chapter 4117. of 28264  
the Revised Code, professional development committees shall be 28265  
established in accordance with any collective bargaining agreement 28266  
in effect in the district that includes provisions for such 28267  
committees. 28268

If the collective bargaining agreement does not specify a 28269  
different method for the selection of teacher members of the 28270  
committees, the exclusive representative of the district's 28271  
teachers shall select the teacher members. 28272

If the collective bargaining agreement does not specify a 28273  
different structure for the committees, the board of education of 28274  
the school district shall establish the structure, including the 28275  
number of committees and the number of teacher and administrative 28276  
members on each committee; the specific administrative members to 28277  
be part of each committee; whether the scope of the committees 28278  
will be district levels, building levels, or by type of grade or 28279  
age levels for which educator licenses are designated; the lengths 28280  
of terms for members; the manner of filling vacancies on the 28281

committees; and the frequency and time and place of meetings. 28282  
However, in all cases, except as provided in division (C)(4) of 28283  
this section, there shall be a majority of teacher members of any 28284  
professional development committee, there shall be at least five 28285  
total members of any professional development committee, and the 28286  
exclusive representative shall designate replacement members in 28287  
the case of vacancies among teacher members, unless the collective 28288  
bargaining agreement specifies a different method of selecting 28289  
such replacements. 28290

(4) Whenever an administrator's coursework plan is being 28291  
discussed or voted upon, the local professional development 28292  
committee shall, at the request of one of its administrative 28293  
members, cause a majority of the committee to consist of 28294  
administrative members by reducing the number of teacher members 28295  
voting on the plan. 28296

(D)(1) The department of education, educational service 28297  
centers, county boards of mental retardation and developmental 28298  
disabilities, regional professional development centers, special 28299  
education regional resource centers, college and university 28300  
departments of education, head start programs, the Ohio SchoolNet 28301  
commission, and the Ohio education computer network may establish 28302  
local professional development committees to determine whether the 28303  
coursework proposed by their employees who are licensed or 28304  
certificated under this section or section 3319.222 of the Revised 28305  
Code meet the requirements of the rules adopted under this 28306  
section. They may establish local professional development 28307  
committees on their own or in collaboration with a school district 28308  
or other agency having authority to establish them. 28309

Local professional development committees established by 28310  
county boards of mental retardation and developmental disabilities 28311  
shall be structured in a manner comparable to the structures 28312  
prescribed for school districts in divisions (C)(2) and (3) of 28313

this section, as shall the committees established by any other 28314  
entity specified in division (D)(1) of this section that provides 28315  
educational services by employing or contracting for services of 28316  
classroom teachers licensed or certificated under this section or 28317  
section 3319.222 of the Revised Code. All other entities specified 28318  
in division (D)(1) of this section shall structure their 28319  
committees in accordance with guidelines which shall be issued by 28320  
the state board. 28321

(2) Any public agency that is not specified in division 28322  
(D)(1) of this section but provides educational services and 28323  
employs or contracts for services of classroom teachers licensed 28324  
or certificated under this section or section 3319.222 of the 28325  
Revised Code may establish a local professional development 28326  
committee, subject to the approval of the department of education. 28327  
The committee shall be structured in accordance with guidelines 28328  
issued by the state board. 28329

**Sec. 3319.33.** On or before the first day of August in each 28330  
year, the board of education of each city ~~and~~, exempted village, 28331  
and local school district shall report to the state board of 28332  
education, ~~and the board of each local school district shall~~ 28333  
~~report to the superintendent of the educational service center,~~ 28334  
the school statistics of its district. Such report shall be made 28335  
on forms furnished by the state board of education and shall 28336  
contain such information as the state board of education requires. 28337  
The report shall also set forth with respect to each civil 28338  
proceeding in which the board of education is a defendant and each 28339  
civil proceeding in which the board of education is a party and is 28340  
not a defendant and in which one of the other parties is a board 28341  
of education in this state or an officer, board, or official of 28342  
this state: 28343

(A) The nature of the proceeding; 28344

(B) The capacity in which the board is a party to the proceeding; 28345  
28346

(C) The total expenses incurred by the board with respect to the proceeding; 28347  
28348

(D) The total expenses incurred by the board with respect to the proceeding during the reporting period. 28349  
28350

Divisions (A) to (D) of this section do not apply to any proceeding for which no expenses have been incurred during the reporting period. 28351  
28352  
28353

The board of education of each city ~~and~~, exempted village, and local school district may prepare and publish annually a report of the condition and administration of the schools under its supervision which shall include therein an exhibit of the financial affairs of the district and the information required in divisions (A) to (D) of this section. Such annual report shall be for a full year. 28354  
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28356  
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28360

**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: 28361  
28362  
28363  
28364

(1) Such reports as are required by the state board of education, the school district board of education, or the superintendent of schools; 28365  
28366  
28367

(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~~, exempted village, or local school 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 28368  
28369  
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28371  
28372  
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28374

taught, with the dates of its validity. The state board of 28375  
education shall prescribe the record and administration for such 28376  
filing of educator licenses and internship certificates in 28377  
educational service centers. 28378

~~(B) If the board of education of a local school district and 28379  
the governing board of the educational service center of which the 28380  
local district is a part have entered into an agreement under 28381  
division (B) of section 3319.07 of the Revised Code, the agreement 28382  
may also require the superintendent of the local school district, 28383  
instead of the superintendent of the educational service center, 28384  
to administer the filing of educator licenses and internship 28385  
certificates for the local school district and to provide to the 28386  
teachers of the district the written statements required in 28387  
division (A)(2) of this section. While such an agreement is in 28388  
effect between a local school district and an educational service 28389  
center, a teacher employed by the local district shall file a 28390  
legal educator license or internship certificate, or true copy of 28391  
it, with the superintendent of the local district and that 28392  
superintendent shall provide to the teacher the written statement 28393  
required by division (A)(2) of this section. 28394~~

~~(C)~~ Notwithstanding division (A) of this section, the 28395  
treasurer may pay either of the following: 28396

(1) Any teacher for services rendered during the first two 28397  
months of the teacher's initial employment with the school 28398  
district or educational service center, provided such teacher is 28399  
the holder of a bachelor's degree or higher and has filed with the 28400  
state board of education an application for the issuance of a 28401  
provisional or professional educator license. 28402

(2) Any substitute teacher for services rendered while 28403  
conditionally employed under section 3319.101 of the Revised Code. 28404

~~(D)~~(C) Upon notice to the treasurer given by the state board 28405

of education or any superintendent having jurisdiction that 28406  
reports required of a teacher have not been made, the treasurer 28407  
shall withhold the salary of the teacher until the required 28408  
reports are completed and furnished. 28409

**Sec. 3323.16.** No unit for deaf children shall be disapproved 28410  
for funding under division (B) or (D)(1) of section 3317.05 of the 28411  
Revised Code on the basis of the methods of instruction used in 28412  
educational programs in the school district or institution to 28413  
teach deaf children to communicate, and no preference in approving 28414  
units for funding shall be given ~~by the state board~~ for teaching 28415  
deaf children by the oral, manual, total communication, or other 28416  
method of instruction. 28417

**Sec. 3327.01.** Notwithstanding division (D) of section 3311.19 28418  
and division (D) of section 3311.52 of the Revised Code, this 28419  
section and sections 3327.011, 3327.012, and 3327.02 of the 28420  
Revised Code do not apply to any joint vocational or cooperative 28421  
education school district. 28422

In all city, local, and exempted village school districts 28423  
where resident school pupils in grades kindergarten through eight 28424  
live more than two miles from the school for which the state board 28425  
of education prescribes minimum standards pursuant to division (D) 28426  
of section 3301.07 of the Revised Code and to which they are 28427  
assigned by the board of education of the district of residence or 28428  
to and from the nonpublic or community school which they attend 28429  
the board of education shall provide transportation for such 28430  
pupils to and from such school except as provided in section 28431  
3327.02 of the Revised Code. 28432

In all city, local, and exempted village school districts the 28433  
board may provide transportation for resident school pupils in 28434  
grades nine through twelve to and from the high school to which 28435

they are assigned by the board of education of the district of 28436  
residence or to and from the nonpublic or community high school 28437  
which they attend for which the state board of education 28438  
prescribes minimum standards pursuant to division (D) of section 28439  
3301.07 of the Revised Code. 28440

A board of education shall not be required to transport 28441  
elementary or high school pupils to and from a nonpublic or 28442  
community school where such transportation would require more than 28443  
thirty minutes of direct travel time as measured by school bus 28444  
from the ~~collection point~~ as public school building to which the 28445  
pupils would be assigned if attending the public school designated 28446  
by the ~~coordinator of school transportation, appointed under~~ 28447  
~~section 3327.011 of the Revised Code, for the attendance area of~~ 28448  
the district of residence. 28449

Where it is impractical to transport a pupil by school 28450  
conveyance, a board of education may offer payment, in lieu of 28451  
providing such transportation in accordance with section 3327.02 28452  
of the Revised Code. 28453

In all city, local, and exempted village school districts the 28454  
board shall provide transportation for all children who are so 28455  
crippled that they are unable to walk to and from the school for 28456  
which the state board of education prescribes minimum standards 28457  
pursuant to division (D) of section 3301.07 of the Revised Code 28458  
and which they attend. In case of dispute whether the child is 28459  
able to walk to and from the school, the health commissioner shall 28460  
be the judge of such ability. In all city, exempted village, and 28461  
local school districts the board shall provide transportation to 28462  
and from school or special education classes for educable mentally 28463  
retarded children in accordance with standards adopted by the 28464  
state board of education. 28465

When transportation of pupils is provided the conveyance 28466  
shall be run on a time schedule that shall be adopted and put in 28467

force by the board not later than ten days after the beginning of 28468  
the school term. 28469

The cost of any transportation service authorized by this 28470  
section shall be paid first out of federal funds, if any, 28471  
available for the purpose of pupil transportation, and secondly 28472  
out of state appropriations, in accordance with regulations 28473  
adopted by the state board of education. 28474

No transportation of any pupils shall be provided by any 28475  
board of education to or from any school which in the selection of 28476  
pupils, faculty members, or employees, practices discrimination 28477  
against any person on the grounds of race, color, religion, or 28478  
national origin. 28479

~~Sec. 3327.011. Coordinators of school transportation shall be 28480  
appointed according to provisions of section 3301.13 of the 28481  
Revised Code to assure that each pupil, as provided in section 28482  
3327.01 of the Revised Code, is transported to and from the school 28483  
which he attends in a safe, expedient, and economical manner using 28484  
public school collection points, routes, and schedules. 28485~~

In determining how best to provide such transportation, where 28486  
persons or firms on or after April 1, 1965, were providing 28487  
transportation to and from schools pursuant to contracts with 28488  
persons or agencies responsible for the operation of such schools, 28489  
~~a coordinator or~~ the board of education responsible for 28490  
transportation in accordance with section 3327.01 of the Revised 28491  
Code shall give preference if economically feasible during the 28492  
term of any such contract to the firm or person providing such 28493  
transportation. The boards of education within the county or group 28494  
of counties shall ~~recommend to the coordinator of~~ establish 28495  
transportation routes, schedules, and utilization of 28496  
transportation equipment. ~~The coordinator, upon receipt of such~~ 28497  
~~recommendations, shall establish transportation routes, schedules,~~ 28498

~~and utilization of transportation equipment, following such~~ 28499  
~~recommendations to whatever extent is feasible.~~ The appeals from 28500  
the determination of the ~~coordinator~~ board of education 28501  
responsible for transportation shall be taken to the state board 28502  
of education. 28503

**Sec. 3329.06.** The board of education of each city, exempted 28504  
village, and local school district shall furnish, free of charge, 28505  
the necessary textbooks to the pupils attending the public 28506  
schools. In lieu of textbooks, district boards may furnish 28507  
electronic textbooks to pupils attending the public schools, 28508  
provided the electronic textbooks are furnished free of charge. A 28509  
district board that chooses to furnish electronic textbooks to 28510  
pupils attending school in the district shall provide reasonable 28511  
access to the electronic textbooks and other necessary computer 28512  
equipment to pupils in the district who are required to complete 28513  
homework assignments, and teachers providing homework assignments, 28514  
utilizing electronic textbooks furnished by the district board. 28515  
Pupils wholly or in part supplied with necessary textbooks or 28516  
electronic textbooks shall be supplied only as other or new 28517  
textbooks or electronic textbooks are needed. ~~A board may limit~~ 28518  
~~its purchase and ownership of textbooks or electronic textbooks~~ 28519  
~~needed for its schools to six subjects per year, the cost of which~~ 28520  
~~shall not exceed twenty five per cent of the entire cost of~~ 28521  
~~adoption.~~ All textbooks or electronic textbooks furnished as 28522  
provided in this section shall be the property of the district, 28523  
and loaned to the pupils on such terms as each such board 28524  
prescribes. In order to carry out sections 3329.01 to 3329.10 of 28525  
the Revised Code, each board, in the preparation of its annual 28526  
budget, shall include as a separate item the amount which the 28527  
board finds necessary to administer such sections and such amount 28528  
shall not be subject to transfer to any other fund. 28529

**Sec. 3329.08.** At any regular meeting, the board of education 28530  
of each local school district, from lists adopted by the 28531  
educational service center governing board, and the board of 28532  
education of each city and exempted village school district shall 28533  
determine by a majority vote of all members elected or appointed 28534  
under division (B) or (F) of section 3311.71 of the Revised Code 28535  
which of such textbooks or electronic textbooks so filed shall be 28536  
used in the schools under its control. ~~Except for periodic and~~ 28537  
~~normal updating of electronic textbooks, no textbooks or~~ 28538  
~~electronic textbooks shall be changed, nor any part thereof~~ 28539  
~~altered or revised, nor any other textbook or electronic textbook~~ 28540  
~~substituted therefor, within four years after the date of~~ 28541  
~~selection and adoption thereof, as shown by the official records~~ 28542  
~~of such boards, except by the consent, at a regular meeting, of~~ 28543  
~~four fifths of all members elected thereto. Textbooks or~~ 28544  
~~electronic textbooks so substituted shall be adopted for the full~~ 28545  
~~term of four years.~~ 28546

**Sec. 3332.04.** The state board of career colleges and schools 28547  
may appoint an executive director and such other staff as may be 28548  
required for the performance of the board's duties and provide 28549  
necessary facilities. In selecting an executive director, the 28550  
board shall appoint an individual with a background or experience 28551  
in the regulation of commerce, business, or education. The board 28552  
may also arrange for services and facilities to be provided by the 28553  
state board of education and the Ohio board of regents. All 28554  
receipts of the board shall be deposited in the state treasury to 28555  
the credit of the ~~general revenue~~ occupational licensing and 28556  
regulatory fund. 28557

**Sec. 3333.12.** (A) As used in this section: 28558

(1) "Eligible student" means an undergraduate student who is: 28559

(a) An Ohio resident;	28560
(b) Enrolled in either of the following:	28561
(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.	28562 28563 28564 28565 28566 28567 28568 28569 28570 28571 28572 28573 28574 28575 28576
(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.	28577 28578 28579 28580
(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.	28581 28582 28583 28584 28585
(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	28586 28587 28588 28589 28590

the board. Gross income may be verified to the board by the 28591  
institution in which the student is enrolled using the federal 28592  
financial aid eligibility verification process or by other means 28593  
satisfactory to the board. 28594

(3) "Resident," "full-time student," "dependent," 28595  
"financially independent," and "accredited" shall be defined by 28596  
rules adopted by the board. 28597

(B) The Ohio board of regents shall establish and administer 28598  
an instructional grant program and may adopt rules to carry out 28599  
this section. The general assembly shall support the instructional 28600  
grant program by such sums and in such manner as it may provide, 28601  
but the board may also receive funds from other sources to support 28602  
the program. If the amounts available for support of the program 28603  
are inadequate to provide grants to all eligible students, 28604  
preference in the payment of grants shall be given in terms of 28605  
income, beginning with the lowest income category of gross income 28606  
and proceeding upward by category to the highest gross income 28607  
category. 28608

An instructional grant shall be paid to an eligible student 28609  
through the institution in which the student is enrolled, except 28610  
that no instructional grant shall be paid to any person serving a 28611  
term of imprisonment. Applications for such grants shall be made 28612  
as prescribed by the board, and such applications may be made in 28613  
conjunction with and upon the basis of information provided in 28614  
conjunction with student assistance programs funded by agencies of 28615  
the United States government or from financial resources of the 28616  
institution of higher education. The institution shall certify 28617  
that the student applicant meets the requirements set forth in 28618  
divisions (A)(1)(b) and (c) of this section. Instructional grants 28619  
shall be provided to an eligible student only as long as the 28620  
student is making appropriate progress toward a nursing diploma or 28621  
an associate or bachelor's degree. No student shall be eligible to 28622

receive a grant for more than ten semesters, fifteen quarters, or 28623  
the equivalent of five academic years. A grant made to an eligible 28624  
student on the basis of less than full-time enrollment shall be 28625  
based on the number of credit hours for which the student is 28626  
enrolled and shall be computed in accordance with a formula 28627  
adopted by the board. No student shall receive more than one grant 28628  
on the basis of less than full-time enrollment. 28629

An instructional grant shall not exceed the total 28630  
instructional and general charges of the institution. 28631

(C) The tables in this division prescribe the maximum grant 28632  
amounts covering two semesters, three quarters, or a comparable 28633  
portion of one academic year. Grant amounts for additional terms 28634  
in the same academic year shall be determined under division (D) 28635  
of this section. 28636

For a full-time student who is a dependent and enrolled in a 28637  
nonprofit educational institution that is not a state-assisted 28638  
institution and that has a certificate of authorization issued 28639  
pursuant to Chapter 1713. of the Revised Code, the amount of the 28640  
instructional grant for two semesters, three quarters, or a 28641  
comparable portion of the academic year shall be determined in 28642  
accordance with the following table: 28643

	Private Institution					28644
	Table of Grants					28645
	Maximum Grant \$5,466					28646
	Number of Dependents					28647
Gross Income	1	2	3	4	5 or more	28648
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	28649
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	28650
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	28651
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	28652

\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	28654
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	28655
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	28656
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	28657
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	28658
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	28659
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	28660
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	28661
\$34,001 - \$35,000	444	888	984	1,080	1,344	28662
\$35,001 - \$36,000	--	444	888	984	1,080	28663
\$36,001 - \$37,000	--	--	444	888	984	28664
\$37,001 - \$38,000	--	--	--	444	888	28665
\$38,001 - \$39,000	--	--	--	--	444	28666

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							28667
Table of Grants							28676
Maximum Grant \$5,466							28677
Gross Income	Number of Dependents						28678
	0	1	2	3	4	5 or more	28679
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	28680
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	28681
\$5,301 - \$5,800	4,362	<del>4,920</del>	5,466	5,466	5,466	5,466	28682
		<u>5,196</u>					28683
\$5,801 - \$6,300	3,828	<del>4,362</del>	<del>4,920</del>	5,466	5,466	5,466	28684
		<u>4,914</u>	<u>5,196</u>				28685

\$6,301 - \$6,800	3,288	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	5,466	5,466	28686
		<u>4,650</u>	<u>4,914</u>	<u>5,196</u>			28687
\$6,801 - \$7,300	2,736	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	5,466	28688
		<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>		28689
\$7,301 - \$8,300	2,178	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	28690
		<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>	28691
\$8,301 - \$9,300	1,626	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	28692
		<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	28693
\$9,301 - \$10,300	1,344	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	28694
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	28695
\$10,301 - \$11,800	1,080	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	28696
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	28697
\$11,801 - \$13,300	984	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	28698
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	28699
\$13,301 - \$14,800	888	<del>984</del>	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	28700
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	28701
\$14,801 - \$16,300	444	<del>888</del>	<del>984</del>	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	28702
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	28703
\$16,301 - \$19,300	--	<del>444</del>	<del>888</del>	<del>984</del>	<del>1,080</del>	<del>1,344</del>	28704
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>	28705
\$19,301 - \$22,300	--	<del>—</del>	<del>444</del>	<del>888</del>	<del>984</del>	<del>1,080</del>	28706
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>	28707
\$22,301 - \$25,300	--	<del>—</del>	<del>—</del>	<del>444</del>	<del>888</del>	<del>984</del>	28708
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	28709
\$25,301 - \$30,300	--	<del>—</del>	<del>—</del>	<del>—</del>	<del>444</del>	<del>888</del>	28710
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	28711
\$30,301 - \$35,300	--	<del>—</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>444</del>	28712
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>	28713

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, 28719  
 three quarters, or a comparable portion of the academic year shall 28720  
 be determined in accordance with the following table: 28721

Career Institution 28722

Table of Grants 28723

Maximum Grant \$4,632 28724

Gross Income Number of Dependents 28725

	1	2	3	4	5 or more	
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	28726
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	28727
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	28728
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	28729
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	28730
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	28731
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	28732
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	28733
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	28734
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	28735
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	28736
\$33,001 - \$34,000	750	852	906	1,134	1,416	28737
\$34,001 - \$35,000	372	750	852	906	1,134	28738
\$35,001 - \$36,000	--	372	750	852	906	28739
\$36,001 - \$37,000	--	--	372	750	852	28740
\$37,001 - \$38,000	--	--	--	372	750	28741
\$38,001 - \$39,000	--	--	--	--	372	28742

For a full-time student who is financially independent and 28743  
 enrolled in an educational institution that holds a certificate of 28744  
 registration from the state board of career colleges and schools 28745  
 or a private institution exempt from regulation under Chapter 28746  
 3332. of the Revised Code as prescribed in section 3333.046 of the 28747  
 Revised Code, the amount of the instructional grant for two 28748  
 semesters, three quarters, or a comparable portion of the academic 28749  
 28750



\$19,301 - \$22,300	--	—	372	750	852	906	28783
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	28784
\$22,301 - \$25,300	--	—	—	372	750	852	28785
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	28786
\$25,301 - \$30,300	--	—	—	—	372	750	28787
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	28788
\$30,301 - \$35,300	--	—	—	—	—	372	28789
		<u>426</u>	<u>456</u>	<u>570</u>	<u>708</u>	<u>1,116</u>	28790

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							28791
Table of Grants							28792
Maximum Grant \$2,190							28793
Gross Income	Number of Dependents					28794	
	1	2	3	4	5 or more	28795	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	28800	
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	28801	
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	28802	
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	28803	
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	28804	
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	28805	
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	28806	
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	28807	
\$28,001 - \$31,000	522	648	864	1,080	1,320	28808	
\$31,001 - \$32,000	420	522	648	864	1,080	28809	
\$32,001 - \$33,000	384	420	522	648	864	28810	
\$33,001 - \$34,000	354	384	420	522	648	28811	
\$34,001 - \$35,000	174	354	384	420	522	28812	
\$35,001 - \$36,000	--	174	354	384	420	28813	

\$36,001 - \$37,000	--	--	174	354	384	28815
\$37,001 - \$38,000	--	--	--	174	354	28816
\$38,001 - \$39,000	--	--	--	--	174	28817

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						28823
	Table of Grants						28824
	Maximum Grant \$2,190						28825
Gross Income	Number of Dependents						28826
	0	1	2	3	4	5 or more	28827
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	28828
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	28829
\$5,301 - \$5,800	1,740	<del>1,974</del>	2,190	2,190	2,190	2,190	28830
		<u>2,082</u>					28831
\$5,801 - \$6,300	1,542	<del>1,740</del>	<del>1,974</del>	2,190	2,190	2,190	28832
		<u>1,968</u>	<u>2,082</u>				28833
\$6,301 - \$6,800	1,320	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	2,190	2,190	28834
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			28835
\$6,801 - \$7,300	1,080	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	2,190	28836
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		28837
\$7,301 - \$8,300	864	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	28838
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	28839
\$8,301 - \$9,300	648	<del>864</del>	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	28840
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	28841
\$9,301 - \$10,300	522	<del>648</del>	<del>864</del>	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	28842
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	28843
\$10,301 - \$11,800	420	<del>522</del>	<del>648</del>	<del>864</del>	<del>1,080</del>	<del>1,320</del>	28844
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	28845
\$11,801 - \$13,300	384	<del>420</del>	<del>522</del>	<del>648</del>	<del>864</del>	<del>1,080</del>	28846

		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	28847
\$13,301 - \$14,800	354	384	420	522	648	864	28848
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	28849
\$14,801 - \$16,300	174	354	384	420	522	648	28850
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	28851
\$16,301 - \$19,300	--	174	354	384	420	522	28852
		<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	28853
\$19,301 - \$22,300	--	—	174	354	384	420	28854
		<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	28855
\$22,301 - \$25,300	--	—	—	174	354	384	28856
		<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	28857
\$25,301 - \$30,300	--	—	—	—	174	354	28858
		<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	28859
\$30,301 - \$35,300	--	—	—	—	—	174	28860
		<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	28861

(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 28879  
the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 28880  
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 28881  
preceding the fiscal year, equal to or greater than thirty per 28882  
cent for each of the preceding two fiscal years. 28883

(2) Division (F)(1) of this section does not apply to the 28884  
following: 28885

(a) Any student enrolled in an institution that under the 28886  
federal law appeals its loss of eligibility for federal financial 28887  
aid and the United States secretary of education determines its 28888  
cohort default rate after recalculation is lower than the rate 28889  
specified in division (F)(1) of this section or the secretary 28890  
determines due to mitigating circumstances the institution may 28891  
continue to participate in federal financial aid programs. The 28892  
board shall adopt rules requiring institutions to provide 28893  
information regarding an appeal to the board. 28894

(b) Any student who has previously received a grant under 28895  
this section who meets all other requirements of this section. 28896

(3) The board shall adopt rules for the notification of all 28897  
institutions whose students will be ineligible to participate in 28898  
the grant program pursuant to division (F)(1) of this section. 28899

(4) A student's attendance at an institution whose students 28900  
lose eligibility for grants under division (F)(1) of this section 28901  
shall not affect that student's eligibility to receive a grant 28902  
when enrolled in another institution. 28903

(G) Institutions of higher education that enroll students 28904  
receiving instructional grants under this section shall report to 28905  
the board all students who have received instructional grants but 28906  
are no longer eligible for all or part of such grants and shall 28907  
refund any moneys due the state within thirty days after the 28908  
beginning of the quarter or term immediately following the quarter 28909

or term in which the student was no longer eligible to receive all 28910  
or part of the student's grant. There shall be an interest charge 28911  
of one per cent per month on all moneys due and payable after such 28912  
thirty-day period. The board shall immediately notify the office 28913  
of budget and management and the legislative service commission of 28914  
all refunds so received. 28915

Sec. 3333.16. As used in this section "state institution of 28916  
higher education" means an institution of higher education as 28917  
defined in section 3345.12 of the Revised Code. 28918

(A) By April 15, 2005, the Ohio board of regents shall do all 28919  
of the following: 28920

(1) Establish policies and procedures applicable to all state 28921  
institutions of higher education that ensure that students can 28922  
begin higher education at any state institution of higher 28923  
education and transfer coursework and degrees to any other state 28924  
institution of higher education without unnecessary duplication or 28925  
institutional barriers. The purpose of this requirement is to 28926  
allow students to attain their highest educational aspirations in 28927  
the most efficient and effective manner for the students and the 28928  
state. These policies and procedures shall require state 28929  
institutions of higher education to make changes or modifications, 28930  
as needed, to strengthen course content so as to ensure 28931  
equivalency for that course at any state institution of higher 28932  
education. 28933

(2) Develop and implement a universal course equivalency 28934  
classification system for state institutions of higher education 28935  
so that the transfer of students and the transfer and articulation 28936  
of equivalent courses or specified learning modules or units 28937  
completed by students are not inhibited by inconsistent judgment 28938  
about the application of transfer credits. Coursework completed 28939  
within such a system at one state institution of higher education 28940

and transferred to another institution shall be applied to the 28941  
student's degree objective in the same manner as equivalent 28942  
coursework completed at the receiving institution. 28943

(3) Develop a system of transfer policies that ensure that 28944  
graduates with associate degrees which include completion of 28945  
approved transfer modules shall be admitted to a state institution 28946  
of higher education baccalaureate program, except specific limited 28947  
access programs or majors that have admission requirements other 28948  
than academic performance, and shall have priority over 28949  
out-of-state associate degree graduates and transfer students. To 28950  
assist a student in advising and transferring, all state 28951  
institutions of higher education shall fully implement the course 28952  
applicability system. 28953

(4) Examine the feasibility of developing a transfer 28954  
marketing agenda that includes materials and interactive 28955  
technology to inform the citizens of Ohio about the availability 28956  
of transfer options at state institutions of higher education and 28957  
to encourage adults to return to colleges and universities for 28958  
additional education; 28959

(5) Study, in consultation with the state board of career 28960  
colleges and schools, and in light of existing criteria and any 28961  
other criteria developed by the articulation and transfer advisory 28962  
council, the feasibility of credit recognition and transferability 28963  
to state institutions of higher education for graduates who have 28964  
received associate degrees from a career college or school with a 28965  
certificate of registration from the state board of career 28966  
colleges and schools under Chapter 3332. of the Revised Code. 28967

(B) By April 15, 2004, the board shall report to the general 28968  
assembly on its progress in attaining completion of the actions 28969  
prescribed in division (A) of this section. 28970

(C) All provisions of the existing articulation and transfer 28971

policy developed by the board shall remain in effect except where 28972  
amended by this act. 28973

Sec. 3333.38. (A) As used in this section: 28974

(1) "Institution of higher education" includes all of the 28975  
following: 28976

(a) A state institution of higher education, as defined in 28977  
section 3345.011 of the Revised Code; 28978

(b) A nonprofit institution issued a certificate of 28979  
authorization by the Ohio board of regents under Chapter 1713. of 28980  
the Revised Code; 28981

(c) A private institution exempt from regulation under 28982  
Chapter 3332. of the Revised Code, as prescribed in section 28983  
3333.046 of the Revised Code; 28984

(d) An institution of higher education with a certificate of 28985  
registration from the state board of career colleges and schools 28986  
under Chapter 3332. of the Revised Code. 28987

(2) "Student financial assistance supported by state funds" 28988  
includes assistance granted under sections 3315.33, 3333.12, 28989  
3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 28990  
5910.032, and 5919.34 of the Revised Code and any other 28991  
post-secondary student financial assistance supported by state 28992  
funds. 28993

(B) An individual who is convicted of, pleads guilty to, or 28994  
is adjudicated a delinquent child for one of the following 28995  
offenses shall be permanently ineligible to receive any student 28996  
financial assistance supported by state funds at an institution of 28997  
higher education: 28998

(1) A violation of section 2917.02 or 2917.03 of the Revised 28999  
Code; 29000

(2) A violation of section 2917.04 of the Revised Code that 29001  
is a misdemeanor of the fourth degree and occurs within the 29002  
proximate area where four or more others are acting in a course of 29003  
conduct in violation of section 2917.11 of the Revised Code; 29004

(3) A violation of section 2917.13 of the Revised Code that 29005  
is a misdemeanor of the fourth or first degree and occurs within 29006  
the proximate area where four or more others are acting in a 29007  
course of conduct in violation of section 2917.11 of the Revised 29008  
Code. 29009

**Sec. 3333.50.** There is hereby created the board of regents 29010  
awards and initiatives fund, which shall be in the custody of the 29011  
treasurer of state but shall not be part of the state treasury. 29012  
The chancellor of the board of regents may deposit such receipts 29013  
into the fund as the board of regents determines appropriate from 29014  
awards, prizes, grants, and gifts received by the board. No 29015  
revenues derived from appropriations made by the state or student 29016  
fees or student charges shall be deposited into the fund. The 29017  
treasurer of state shall invest any portion of the fund not needed 29018  
for immediate use in the same manner as state funds are invested. 29019  
All investment earnings of the fund shall be deposited into the 29020  
fund. The chancellor may use the fund in support of awards and 29021  
other initiatives approved by the board. All disbursements from 29022  
the fund shall be made by the treasurer of state pursuant to 29023  
vouchers signed by the chancellor. 29024

**Sec. 3353.11.** There is hereby created in the state treasury 29025  
the governmental television/telecommunications operating fund. The 29026  
fund shall consist of money received from contract productions of 29027  
the Ohio government telecommunications studio and shall be used 29028  
for operations or equipment breakdowns related to the studio. Only 29029  
Ohio government telecommunications may authorize the spending of 29030

money in the fund. All investment earnings of the fund shall be 29031  
credited to the fund. Once the fund has a balance of zero, the 29032  
fund shall cease to exist. 29033

**Sec. 3361.01.** (A) There is hereby created a state university 29034  
to be known as the "university of Cincinnati." The government of 29035  
the university of Cincinnati is vested in a board of eleven 29036  
trustees who shall be appointed by the governor with the advice 29037  
and consent of the senate. Two of the trustees shall be students 29038  
at the university of Cincinnati, and their selection and terms 29039  
shall be in accordance with division (B) of this section. The 29040  
terms of the first nine members of the board of trustees shall 29041  
commence upon the effective date of the transfer of assets of the 29042  
state-affiliated university of Cincinnati to the university of 29043  
Cincinnati hereby created. One of such trustees shall be appointed 29044  
for a term ending on the first day of January occurring at least 29045  
twelve months after such date of transfer, and each of the other 29046  
trustees shall be appointed for respective terms ending on each 29047  
succeeding first day of January, so that one term will expire on 29048  
each first day of January after expiration of the shortest term. 29049  
Except for the two student trustees, each successor trustee shall 29050  
be appointed for a term ending on the first day of January, nine 29051  
years from the expiration date of the term ~~he~~ the trustee 29052  
succeeds, except that any person appointed to fill a vacancy shall 29053  
be appointed to serve only for the unexpired term. 29054

Any trustee shall continue in office subsequent to the 29055  
expiration date of ~~his~~ the trustee's term until ~~his~~ the trustee's 29056  
successor takes office, or until a period of sixty days has 29057  
elapsed, whichever occurs first. 29058

No person who has served a full nine-year term or longer or 29059  
more than six years of such a term shall be eligible to 29060  
reappointment. ~~No person is eligible for appointment to the board~~ 29061

~~of trustees for a full nine year term who is not at the time of~~ 29062  
~~appointment a resident of the city of Cincinnati, unless at the~~ 29063  
~~time of such appointment there are at least five members of the~~ 29064  
~~board who are not students and who are residents of the city of~~ 29065  
~~Cincinnati.~~ 29066

The trustees shall receive no compensation for their services 29067  
but shall be paid their reasonable necessary expenses while 29068  
engaged in the discharge of their official duties. A majority of 29069  
the board constitutes a quorum. 29070

(B) The student members of the board of trustees of the 29071  
university of Cincinnati have no voting power on the board. 29072  
Student members shall not be considered as members of the board in 29073  
determining whether a quorum is present. Student members shall not 29074  
be entitled to attend executive sessions of the board. The student 29075  
members of the board shall be appointed by the governor, with the 29076  
advice and consent of the senate, from a group of five candidates 29077  
selected pursuant to a procedure adopted by the university's 29078  
student governments and approved by the university's board of 29079  
trustees. The initial term of office of one of the student members 29080  
shall commence on May 14, 1988 and shall expire on May 13, 1989, 29081  
and the initial term of office of the other student member shall 29082  
commence on May 14, 1988 and expire on May 13, 1990. Thereafter, 29083  
terms of office of student members shall be for two years, each 29084  
term ending on the same day of the same month of the year as the 29085  
term it succeeds. In the event that a student cannot fulfill ~~his~~ a 29086  
two-year term, a replacement shall be selected to fill the 29087  
unexpired term in the same manner used to make the original 29088  
selection. 29089

**Sec. 3375.41.** When a board of library trustees appointed 29090  
pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 29091  
and 3375.30 of the Revised Code determines to construct, demolish, 29092

alter, repair, or reconstruct a library or make any improvements 29093  
or repairs, the cost of which will exceed ~~fifteen~~ twenty-five 29094  
thousand dollars, except in cases of urgent necessity or for the 29095  
security and protection of library property, it shall proceed as 29096  
follows: 29097

(A) The board shall advertise for a period of four weeks for 29098  
bids in some newspaper of general circulation in the district, and 29099  
if there are two such papers, the board shall advertise in both of 29100  
them. If no newspaper has a general circulation in the district, 29101  
the board shall advertise by posting ~~such~~ the advertisement in 29102  
three public places ~~therein~~ in the district. ~~Such~~ The 29103  
advertisement shall be entered in full by the clerk on the record 29104  
of proceedings of the board. 29105

(B) The sealed bids shall be filed with the clerk by twelve 29106  
noon of the last day stated in the advertisement. 29107

(C) The bids shall be opened at the next meeting of the 29108  
board, shall be publicly read by the clerk, and shall be entered 29109  
in full on the records of the board; provided, ~~that the board may,~~ 29110  
by resolution, may provide for the public opening and reading of 29111  
~~such~~ the bids by the clerk, immediately after the time for filing 29112  
~~such~~ the bids has expired, at the usual place of meeting of the 29113  
board, and for the tabulation of ~~such~~ the bids and a report of 29114  
~~such~~ the tabulation to the board at its next meeting. 29115

(D) Each bid shall contain the name of every person 29116  
interested ~~therein,~~ in it and shall meet the requirements of 29117  
section 153.54 of the Revised Code. 29118

(E) When both labor and materials are embraced in the work 29119  
bid for, the board may require that each be separately stated in 29120  
the bid, with the price ~~thereof~~ of each, or may require that bids 29121  
be submitted without ~~such~~ that separation. 29122

(F) None but the lowest responsible bid shall be accepted. 29123

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 29154  
and other instructional facilities, laboratories, research 29155  
facilities, libraries, study facilities, administrative and office 29156  
facilities, museums, gymnasiums, campus walks, drives and site 29157  
improvements, dormitories and other suitable living quarters or 29158  
accommodations, dining halls and other food service and 29159  
preparation facilities, student services or activity facilities, 29160  
physical education, athletic and recreational facilities, 29161  
theatres, auditoriums, assembly and exhibition halls, greenhouses, 29162  
agricultural buildings and facilities, parking, storage and 29163  
maintenance facilities, infirmary, hospital, medical, and health 29164  
facilities, continuing education facilities, communications, fire 29165  
prevention, and fire fighting facilities, and any one, or any 29166  
combination of the foregoing, whether or not comprising part of 29167  
one building, structure, or facility. It does not include any 29168  
facility used ~~for sectarian instruction or study or~~ exclusively as 29169  
a place for devotional activities ~~or religious worship~~. 29170

(C) "Bond proceedings" means the resolution or resolutions, 29171  
the trust agreement, the indenture of mortgage, or combination 29172  
thereof authorizing or providing for the terms and conditions 29173  
applicable to bonds issued under authority of Chapter 3377. of the 29174  
Revised Code. 29175

(D) "Pledged facilities" means the project or other property 29176  
that is mortgaged or the rentals, revenues, and other income, 29177  
charges, and moneys from which are pledged, or both, for the 29178  
payment of or the security for the payment of the principal of and 29179  
interest on the bonds issued under the authority of section 29180  
3377.05 or 3377.06 of the Revised Code. 29181

(E) "Project" means real or personal property, or both, 29182  
acquired by gift or purchase, constructed, reconstructed, 29183  
enlarged, remodeled, renovated, improved, furnished, or equipped, 29184  
or any combination thereof, by or financed by the Ohio higher 29185

educational facility commission, or by funds that are refinanced 29186  
or reimbursed by the commission for use by an educational 29187  
institution as an educational facility located within the state. 29188

(F) "Project costs" means the costs of acquiring, 29189  
constructing, equipping, furnishing, reconstructing, remodeling, 29190  
renovating, enlarging, and improving educational facilities 29191  
comprising one or more project, including costs connected with or 29192  
incidental thereto, provision of capitalized interest prior to and 29193  
during construction and for a period after the completion of the 29194  
construction, appropriate reserves, architectural, engineering, 29195  
financial, and legal services, and all other costs of financing, 29196  
and the repayment or restoration of moneys borrowed or advanced 29197  
for such purposes or temporarily used therefor from other sources, 29198  
and means the costs of refinancing obligations issued or loans 29199  
incurred by, or reimbursement of money advanced, invested or 29200  
expended by, educational institutions or others the proceeds of 29201  
which obligations or loans or the amounts advanced, invested or 29202  
expended were used at any time for the payment of project costs, 29203  
if the Ohio higher educational facility commission determines that 29204  
the refinancing or reimbursement advances the purposes of this 29205  
chapter, whether or not the refinancing or reimbursement is in 29206  
conjunction with the acquisition or construction of additional 29207  
educational facilities. 29208

**Sec. 3377.06.** In anticipation of the issuance of bonds 29209  
authorized by section 3377.05 of the Revised Code, the Ohio higher 29210  
educational facility commission may issue bond anticipation notes 29211  
of the state and may renew the same from time to time by the 29212  
issuance of new notes, but the maximum maturity of such notes, 29213  
including renewals thereof, shall not exceed five years from the 29214  
date of the issuance of the original notes. Such notes are payable 29215  
solely from the revenues and receipts that may be pledged to the 29216  
payment of such bonds or from the proceeds of such bonds, or both, 29217

as the commission provides in its resolution authorizing such 29218  
notes, and may be additionally secured by covenants of the 29219  
commission to the effect that the commission will do such or all 29220  
things necessary for the issuance of such bonds, or of renewal 29221  
notes under this section in appropriate amount, and either 29222  
exchange such bonds or renewal notes therefor or apply the 29223  
proceeds thereof to the extent necessary to make full payment on 29224  
such notes at the time or times contemplated, as provided in such 29225  
resolution. Subject to the provisions of this section, all 29226  
provisions for and references to bonds in Chapter 3377. of the 29227  
Revised Code are applicable to notes authorized under this section 29228  
and any references therein to bondholders shall include holders or 29229  
owners of such notes. 29230

Prior to the sale of bonds or notes authorized under section 29231  
3377.05 or 3377.06 of the Revised Code, the commission shall 29232  
determine that the project to be financed thereby will contribute 29233  
to the objectives stated in section 3377.02 of the Revised Code 29234  
and that the educational institution to which such project is to 29235  
be leased, sold, exchanged, or otherwise disposed of, admits 29236  
students without discrimination by reason of race, creed, color, 29237  
or national origin. Nothing in this section prohibits an 29238  
educational institution from requesting that its applicants for 29239  
admission demonstrate beliefs or principles consistent with the 29240  
mission of the institution. 29241

Sec. 3379.11. There is hereby created in the state treasury 29242  
the gifts and donations fund. The fund shall consist of gifts and 29243  
donations made to the Ohio arts council and fees paid for 29244  
conferences the council sponsors. The fund shall be used to pay 29245  
for the council's operating expenses, including, but not limited 29246  
to, payroll, personal services, maintenance, equipment, and 29247  
subsidy payments. All moneys deposited into the fund shall be 29248  
received and expended pursuant to the council's duty to foster and 29249

encourage the development of the arts in this state and the 29250  
preservation of the state's cultural heritage. 29251

**Sec. 3383.01.** As used in this chapter: 29252

(A) "Arts" means any of the following: 29253

(1) Visual, musical, dramatic, graphic, design, and other 29254  
arts, including, but not limited to, architecture, dance, 29255  
literature, motion pictures, music, painting, photography, 29256  
sculpture, and theater, and the provision of training or education 29257  
in these arts; 29258

(2) The presentation or making available, in museums or other 29259  
indoor or outdoor facilities, of principles of science and their 29260  
development, use, or application in business, industry, or 29261  
commerce or of the history, heritage, development, presentation, 29262  
and uses of the arts described in division (A)(1) of this section 29263  
and of transportation; 29264

(3) The preservation, presentation, or making available of 29265  
features of archaeological, architectural, environmental, or 29266  
historical interest or significance in a state historical facility 29267  
or a local historical facility. 29268

(B) "Arts organization" means either of the following: 29269

(1) A governmental agency or Ohio nonprofit corporation that 29270  
provides programs or activities in areas directly concerned with 29271  
the arts; 29272

(2) A regional arts and cultural district as defined in 29273  
section 3381.01 of the Revised Code. 29274

(C) "Arts project" means all or any portion of an Ohio arts 29275  
facility for which the general assembly has specifically 29276  
authorized the spending of money, or made an appropriation, 29277  
pursuant to division (D)(3) or (E) of section 3383.07 of the 29278  
Revised Code. 29279

(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 29310  
provided by or on behalf of an arts organization from sources 29311  
other than the state, the value and nature of which shall be 29312  
approved by the Ohio arts and sports facilities commission, in its 29313  
sole discretion. "Local contributions" may include the value of 29314  
the site where an arts project is to be constructed. All "local 29315  
contributions," except a contribution attributable to such a site, 29316  
shall be for the costs of construction of an arts project or the 29317  
costs of operation of an arts facility. 29318

(I) "Local historical facility" means a site or facility, 29319  
other than a state historical facility, of archaeological, 29320  
architectural, environmental, or historical interest or 29321  
significance, or a facility, including a storage facility, 29322  
appurtenant to the operations of such a site or facility, that is 29323  
owned by an arts organization, provided the facility meets the 29324  
requirements of division (K)(2)(b) of this section, is managed by 29325  
or pursuant to a contract with the Ohio arts and sports facilities 29326  
commission, and is used for or in connection with the activities 29327  
of the commission, including the presentation or making available 29328  
of arts to the public. 29329

(J) "Manage," "operate," or "management" means the provision 29330  
of, or the exercise of control over the provision of, activities: 29331

(1) Relating to the arts for an Ohio arts facility, including 29332  
as applicable, but not limited to, providing for displays, 29333  
exhibitions, specimens, and models; booking of artists, 29334  
performances, or presentations; scheduling; and hiring or 29335  
contracting for directors, curators, technical and scientific 29336  
staff, ushers, stage managers, and others directly related to the 29337  
arts activities in the facility; but not including general 29338  
building services; 29339

(2) Relating to sports and athletic events for an Ohio sports 29340

facility, including as applicable, but not limited to, providing 29341  
for booking of athletes, teams, and events; scheduling; and hiring 29342  
or contracting for staff, ushers, managers, and others directly 29343  
related to the sports and athletic events in the facility; but not 29344  
including general building services. 29345

(K) "Ohio arts facility" means any of the following: 29346

(1) The three theaters located in the state office tower at 29347  
77 South High street in Columbus; 29348

(2) Any capital facility in this state to which both of the 29349  
following apply: 29350

(a) The construction of an arts project related to the 29351  
facility was authorized or funded by the general assembly pursuant 29352  
to division (D)(3) of section 3383.07 of the Revised Code and 29353  
proceeds of state bonds are used for costs of the arts project. 29354

(b) The facility is managed directly by, or is subject to a 29355  
cooperative or management contract with, the Ohio arts and sports 29356  
facilities commission, and is used for or in connection with the 29357  
activities of the commission, including the presentation or making 29358  
available of arts to the public and the provision of training or 29359  
education in the arts. ~~A cooperative or management contract shall 29360  
be for a term not less than the time remaining to the date of 29361  
payment or provision for payment of any state bonds issued to pay 29362  
the costs of the arts project, as determined by the director of 29363  
budget and management and certified by the director to the Ohio 29364  
arts and sports facilities commission and to the Ohio building 29365  
authority. 29366~~

(3) A state historical facility or a local historical 29367  
facility. 29368

(L) "State agency" means the state or any of its branches, 29369  
officers, boards, commissions, authorities, departments, 29370  
divisions, or other units or agencies. 29371

(M) "Construction" includes acquisition, including 29372  
acquisition by lease-purchase, demolition, reconstruction, 29373  
alteration, renovation, remodeling, enlargement, improvement, site 29374  
improvements, and related equipping and furnishing. 29375

(N) "State historical facility" means a site or facility of 29376  
archaeological, architectural, environmental, or historical 29377  
interest or significance, or a facility, including a storage 29378  
facility, appurtenant to the operations of such a site or 29379  
facility, that is owned by or is located on real property owned by 29380  
the state or by an arts organization, so long as the real property 29381  
of the arts organization is contiguous to state-owned real 29382  
property that is in the care, custody, and control of an arts 29383  
organization, and that is managed directly by or is subject to a 29384  
cooperative or management contract with the Ohio arts and sports 29385  
facilities commission and is used for or in connection with the 29386  
activities of the commission, including the presentation or making 29387  
available of arts to the public. 29388

(O) "Ohio sports facility" means all or a portion of a 29389  
stadium, arena, or other capital facility in this state, a primary 29390  
purpose of which is to provide a site or venue for the 29391  
presentation to the public of events of one or more major or minor 29392  
league professional athletic or sports teams that are associated 29393  
with the state or with a city or region of the state, which 29394  
facility is owned by or is located on real property owned by the 29395  
state or a governmental agency, and including all parking 29396  
facilities, walkways, and other auxiliary facilities, equipment, 29397  
furnishings, and real and personal property and interests and 29398  
rights therein, that may be appropriate for or used for or in 29399  
connection with the facility or its operation, for capital costs 29400  
of which state funds are spent pursuant to this chapter. A 29401  
facility constructed as an Ohio sports facility may be both an 29402  
Ohio arts facility and an Ohio sports facility. 29403

Sec. 3383.07. (A) The department of administrative services 29404  
shall provide for the construction of an arts project in 29405  
conformity with Chapter 153. of the Revised Code, except as 29406  
follows: 29407

(1) For an arts project that has an estimated construction 29408  
cost, excluding the cost of acquisition, of twenty-five million 29409  
dollars or more, and that is financed by the Ohio building 29410  
authority, construction services may be provided by the authority 29411  
if the authority determines it should provide those services. 29412

(2) For an arts project other than a state historical 29413  
facility, construction services may be provided on behalf of the 29414  
state by the Ohio arts and sports facilities commission, or by a 29415  
governmental agency or an arts organization that occupies, will 29416  
occupy, or is responsible for the Ohio arts facility, as 29417  
determined by the commission. Construction services to be provided 29418  
by a governmental agency or an arts organization shall be 29419  
specified in an agreement between the commission and the 29420  
governmental agency or arts organization. The agreement, or any 29421  
actions taken under it, are not subject to Chapter 123. or 153. of 29422  
the Revised Code, except for sections 123.151 and 153.011 of the 29423  
Revised Code, and shall be subject to Chapter 4115. of the Revised 29424  
Code. 29425

(3) For an arts project that is a state historical facility, 29426  
construction services may be provided by the Ohio arts and sports 29427  
facilities commission or by an arts organization that occupies, 29428  
will occupy, or is responsible for the facility, as determined by 29429  
the commission. The construction services to be provided by the 29430  
arts organization shall be specified in an agreement between the 29431  
commission and the arts organization. That agreement, and any 29432  
actions taken under it, are not subject to Chapter 123., 153., or 29433  
4115. of the Revised Code. 29434

(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 29467  
governmental agency or nonprofit corporation. That agreement, and 29468  
any actions taken under it, are not subject to Chapter 123. or 29469  
153. of the Revised Code, except for sections 123.151 and 153.011 29470  
of the Revised Code, and shall be subject to Chapter 4115. of the 29471  
Revised Code. 29472

(D) This division does not apply to a state historical 29473  
facility. No state funds, including any state bond proceeds, shall 29474  
be spent on the construction of any arts project under this 29475  
chapter unless, with respect to the arts project and to the Ohio 29476  
arts facility related to the project, all of the following apply: 29477

(1) The Ohio arts and sports facilities commission has 29478  
determined that there is a need for the arts project and the Ohio 29479  
arts facility related to the project in the region of the state in 29480  
which the Ohio arts facility is located or for which the facility 29481  
is proposed. 29482

(2) The commission has determined that, as an indication of 29483  
substantial regional support for the arts project, the arts 29484  
organization has made provision satisfactory to the commission, in 29485  
its sole discretion, for local contributions amounting to not less 29486  
than fifty per cent of the total state funding for the arts 29487  
project. 29488

(3) The general assembly has specifically authorized the 29489  
spending of money on, or made an appropriation for, the 29490  
construction of the arts project, or for rental payments relating 29491  
to the financing of the construction of the arts project. 29492  
Authorization to spend money, or an appropriation, for planning 29493  
the arts project does not constitute authorization to spend money 29494  
on, or an appropriation for, construction of the arts project. 29495

(E) No state funds, including any state bond proceeds, shall 29496  
be spent on the construction of any state historical facility 29497

under this chapter unless the general assembly has specifically 29498  
authorized the spending of money on, or made an appropriation for, 29499  
the construction of the arts project related to the facility, or 29500  
for rental payments relating to the financing of the construction 29501  
of the arts project. Authorization to spend money, or an 29502  
appropriation, for planning the arts project does not constitute 29503  
authorization to spend money on, or an appropriation for, the 29504  
construction of the arts project. 29505

(F) State funds shall not be used to pay or reimburse more 29506  
than fifteen per cent of the initial estimated construction cost 29507  
of an Ohio sports facility, excluding any site acquisition cost, 29508  
and no state funds, including any state bond proceeds, shall be 29509  
spent on any Ohio sports facility under this chapter unless, with 29510  
respect to that facility, all of the following apply: 29511

(1) The Ohio arts and sports facilities commission has 29512  
determined that there is a need for the facility in the region of 29513  
the state for which the facility is proposed to provide the 29514  
function of an Ohio sports facility as provided for in this 29515  
chapter. 29516

(2) As an indication of substantial local support for the 29517  
facility, the commission has received a financial and development 29518  
plan satisfactory to it, and provision has been made, by agreement 29519  
or otherwise, satisfactory to the commission, for a contribution 29520  
amounting to not less than eighty-five per cent of the total 29521  
estimated construction cost of the facility, excluding any site 29522  
acquisition cost, from sources other than the state. 29523

(3) The general assembly has specifically authorized the 29524  
spending of money on, or made an appropriation for, the 29525  
construction of the facility, or for rental payments relating to 29526  
state financing of all or a portion of the costs of constructing 29527  
the facility. Authorization to spend money, or an appropriation, 29528  
for planning or determining the feasibility of or need for the 29529

facility does not constitute authorization to spend money on, or 29530  
an appropriation for, costs of constructing the facility. 29531

(4) If state bond proceeds are being used for the Ohio sports 29532  
facility, the state or a governmental agency owns or has 29533  
sufficient property interests in the facility or in the site of 29534  
the facility or in the portion or portions of the facility 29535  
financed from proceeds of state bonds, which may include, but is 29536  
not limited to, the right to use or to require the use of the 29537  
facility for the presentation of sport and athletic events to the 29538  
public at the facility, ~~extending for a period of not less than~~ 29539  
~~the greater of the useful life of the portion of the facility~~ 29540  
~~financed from proceeds of those bonds as determined using the~~ 29541  
~~guidelines for maximum maturities as provided under divisions (B),~~ 29542  
~~(C), and (D) of section 133.20 of the Revised Code, or the period~~ 29543  
~~of time remaining to the date of payment or provision for payment~~ 29544  
~~of outstanding state bonds allocable to costs of the facility, all~~ 29545  
~~as determined by the director of budget and management and~~ 29546  
~~certified by the director to the Ohio arts and sports facilities~~ 29547  
~~commission and to the Ohio building authority.~~ 29548

Sec. 3501.011. (A) Except as otherwise provided in divisions 29549  
(B) and (C) of this section, and except as otherwise provided in 29550  
any section of Title XXXV of the Revised Code to the contrary, as 29551  
used in the sections of the Revised Code relating to elections and 29552  
political communications, whenever a person is required to sign or 29553  
affix a signature to a declaration of candidacy, nominating 29554  
petition, declaration of intent to be a write-in candidate, 29555  
initiative petition, referendum petition, recall petition, or any 29556  
other kind of petition, or to sign or affix a signature on any 29557  
other document that is filed with or transmitted to a board of 29558  
elections or the office of the secretary of state, "sign" or 29559  
"signature" means that person's written, cursive-style legal mark 29560  
written in that person's own hand. 29561

(B) For persons who do not use a cursive-style legal mark during the course of their regular business and legal affairs, "sign" or "signature" means that person's other legal mark that the person uses during the course of that person's regular business and legal affairs that is written in the person's own hand.

(C) Any voter registration record requiring a person's signature shall be signed using the person's legal mark used in the person's regular business and legal affairs. For any purpose described in division (A) of this section, the legal mark of a registered elector shall be considered to be the mark of that elector as it appears on the elector's voter registration record.

**Sec. 3501.18.** (A) The board of elections may divide a political subdivision<sub>7</sub> within its jurisdiction<sub>7</sub> into precincts ~~and~~<sub>1</sub> establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction<sub>1</sub> and change the location of the polling place for each precinct when it is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections, ~~provided that no.~~ No change in the number of precincts or in precinct boundaries shall be made during the twenty-five days immediately preceding a primary or general election ~~nor~~ or between the first day of January and the day on which the members of county central committees are elected in the years in which those committees are elected. Except as otherwise provided in division (C) of this section, each precinct shall contain a number of electors, not to exceed one thousand four hundred, that the board of elections determines to be a reasonable number after taking into consideration the type and amount of available equipment, prior voter turnout, the size and location of each selected polling place, available parking,

availability of an adequate number of poll workers, and handicap 29593  
accessibility and other accessibility to the polling place. 29594

If the board changes the boundaries of a precinct after the 29595  
filing of a local option election petition pursuant to sections 29596  
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 29597  
calls for a local option election to be held in that precinct, the 29598  
local option election shall be held in the area that constituted 29599  
the precinct at the time the local option petition was filed, 29600  
regardless of the change in the boundaries. 29601

If the board changes the boundaries of a precinct in order to 29602  
meet the requirements of division (B)(1) of this section in a 29603  
manner that causes a member of a county central committee to no 29604  
longer qualify as a representative of an election precinct in the 29605  
county, of a ward of a city in the county, or of a township in the 29606  
county, the member shall continue to represent the precinct, ward, 29607  
or township for the remainder of the member's term, regardless of 29608  
the change in boundaries. 29609

In an emergency, the board may provide more than one polling 29610  
place in a precinct. In order to provide for the convenience of 29611  
the voters, the board may locate polling places for voting or 29612  
registration outside the boundaries of precincts, provided that 29613  
the nearest public school or public building shall be used if the 29614  
board determines it to be available and suitable for use as a 29615  
polling place. Except in an emergency, no change in the number or 29616  
location of the polling places in a precinct shall be made during 29617  
the twenty-five days immediately preceding a primary or general 29618  
election. 29619

Electors who have failed to respond within thirty days to any 29620  
confirmation notice shall not be counted in determining the size 29621  
of any precinct under this section. 29622

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 29623

of this section, ~~not later than August 1, 2000,~~ the a board of 29624  
elections shall determine all precinct boundaries using 29625  
geographical units used by the United States department of 29626  
commerce, bureau of the census, in reporting the decennial census 29627  
of Ohio. 29628

~~(2) When any part of the boundary of a precinct also forms a 29629  
part of the boundary of a legislative district and the precinct 29630  
boundary cannot be determined by August 1, 2000, using the 29631  
geographical units described in division (B)(1) of this section 29632  
without making that part of the precinct boundary that also forms 29633  
part of the legislative district boundary different from that 29634  
legislative district boundary, the board of elections may 29635  
determine the boundary of that precinct using the geographical 29636  
units described in division (B)(1) of this section not later than 29637  
April 1, 2002. As used in this division, legislative district 29638  
means a district determined under Article XI of the Ohio 29639  
Constitution. 29640~~

~~(3) The board of elections may apply to the secretary of 29641  
state for a waiver from the requirement of division (B)(1) of this 29642  
section when it is not feasible to comply with that requirement 29643  
because of unusual physical boundaries or residential development 29644  
practices that would cause unusual hardship for voters. The board 29645  
shall identify the affected precincts and census units, explain 29646  
the reason for the waiver request, and include a map illustrating 29647  
where the census units will be split because of the requested 29648  
waiver. If the secretary of state approves the waiver and so 29649  
notifies the board of elections in writing, the board may change a 29650  
precinct boundary as necessary under this section, notwithstanding 29651  
the requirement in division (B)(1) of this section. 29652~~

~~(C) The board of elections may apply to the secretary of 29653  
state for a waiver from the requirement of division (A) of this 29654  
section regarding the number of electors in a precinct when the 29655~~

use of geographical units used by the United States department of 29656  
commerce, bureau of the census, will cause a precinct to contain 29657  
more than one thousand four hundred electors. The board shall 29658  
identify the affected precincts and census units, explain the 29659  
reason for the waiver request, and include a map illustrating 29660  
where census units will be split because of the requested waiver. 29661  
If the secretary of state approves the waiver and so notifies the 29662  
board of elections in writing, the board may change a precinct 29663  
boundary as necessary to meet the requirements of division (B)(1) 29664  
of this section. 29665

**Sec. 3501.30.** (A) The board of elections shall provide for 29666  
each polling place the necessary ballot boxes, official ballots, 29667  
cards of instructions, registration forms, pollbooks, or poll 29668  
lists, tally sheets, forms on which to make summary statements, 29669  
writing implements, paper, and all other supplies necessary for 29670  
casting and counting the ballots and recording the results of the 29671  
voting at ~~such~~ the polling place. ~~Such~~ The pollbooks or poll lists 29672  
shall have certificates appropriately printed ~~thereon~~ on them for 29673  
the signatures of all the precinct officials, by which they shall 29674  
certify that, to the best of their knowledge and belief, ~~said~~ the 29675  
pollbooks or poll lists correctly show the names of all electors 29676  
who voted in ~~such~~ the polling place at the election indicated 29677  
~~therein~~ in the pollbook or poll list. 29678

A All of the following shall be included among the supplies 29679  
provided to each polling place: 29680

(1) A large map of each appropriate precinct shall be 29681  
~~included among the supplies to each polling place,~~ which shall be 29682  
displayed prominently to assist persons who desire to register or 29683  
vote on election day. Each map shall show all streets within the 29684  
precinct and contain identifying symbols of the precinct in bold 29685  
print. 29686

~~Such supplies shall also include a~~ (2) Any materials, 29687  
postings, or instructions required to comply with state or federal 29688  
laws; 29689

(3) A flag of the United States approximately two and 29690  
one-half feet in length along the top, which shall be displayed 29691  
outside the entrance to the polling place during the time it is 29692  
open for voting. ~~Two;~~ 29693

(4) Two or more small flags of the United States 29694  
approximately fifteen inches in length along the top ~~shall be~~ 29695  
~~provided and, which~~ shall be placed at a distance of one hundred 29696  
feet from the polling place on the thoroughfares or walkways 29697  
leading to the polling place, to mark the distance within which 29698  
persons other than election officials, witnesses, challengers, 29699  
police officers, and electors waiting to mark, marking, or casting 29700  
their ballots shall not loiter, congregate, or engage in any kind 29701  
of election campaigning. Where small flags cannot reasonably be 29702  
placed one hundred feet from the polling place, the presiding 29703  
election judge shall place the flags as near to one hundred feet 29704  
from the entrance to the polling place as is physically possible. 29705  
Police officers and all election officials shall see that this 29706  
prohibition against loitering and congregating is enforced. ~~When~~ 29707

When the period of time during which the polling place is 29708  
open for voting expires, all of ~~said~~ the flags described in this 29709  
division shall be taken into the polling place, and shall be 29710  
returned to the board together with all other election ~~materials~~ 29711  
~~and~~ supplies required to be delivered to ~~such~~ the board. 29712

(B) The board of elections shall follow the instructions and 29713  
advisories of the secretary of state in the production and use of 29714  
polling place supplies. 29715

**Sec. 3503.10.** (A) Each designated agency shall designate one 29716

person within that agency to serve as coordinator for the voter 29717  
registration program within the agency and its departments, 29718  
divisions, and programs. The designated person shall be trained 29719  
under a program designed by the secretary of state and shall be 29720  
responsible for administering all aspects of the voter 29721  
registration program for that agency as prescribed by the 29722  
secretary of state. The designated person shall receive no 29723  
additional compensation for performing such duties. 29724

(B) Every designated agency, public high school and 29725  
vocational school, public library, and office of a county 29726  
treasurer shall provide in each of its offices or locations voter 29727  
registration applications and assistance in the registration of 29728  
persons qualified to register to vote, in accordance with this 29729  
chapter. 29730

(C) Every designated agency shall distribute to its 29731  
applicants, prior to or in conjunction with distributing a voter 29732  
registration application, a form prescribed by the secretary of 29733  
state that includes all of the following: 29734

(1) The question, "Do you want to register to vote or update 29735  
your current voter registration?"--followed by boxes for the 29736  
applicant to indicate whether the applicant would like to register 29737  
or decline to register to vote, and the statement, highlighted in 29738  
bold print, "If you do not check either box, you will be 29739  
considered to have decided not to register to vote at this time.;" 29740

(2) If the agency provides public assistance, the statement, 29741  
"Applying to register or declining to register to vote will not 29742  
affect the amount of assistance that you will be provided by this 29743  
agency.;" 29744

(3) The statement, "If you would like help in filling out the 29745  
voter registration application form, we will help you. The 29746  
decision whether to seek or accept help is yours. You may fill out 29747

the application form in private."; 29748

(4) The statement, "If you believe that someone has 29749  
interfered with your right to register or to decline to register 29750  
to vote, your right to privacy in deciding whether to register or 29751  
in applying to register to vote, or your right to choose your own 29752  
political party or other political preference, you may file a 29753  
complaint with the prosecuting attorney of your county or with the 29754  
secretary of state," with the address and telephone number for 29755  
each such official's office. 29756

(D) Each designated agency shall distribute a voter 29757  
registration form prescribed by the secretary of state to each 29758  
applicant with each application for service or assistance, and 29759  
with each written application or form for recertification, 29760  
renewal, or change of address. 29761

(E) Each designated agency shall do all of the following: 29762

(1) Have employees trained to administer the voter 29763  
registration program in order to provide to each applicant who 29764  
wishes to register to vote and who accepts assistance, the same 29765  
degree of assistance with regard to completion of the voter 29766  
registration application as is provided by the agency with regard 29767  
to the completion of its own form; 29768

(2) Accept completed voter registration applications, voter 29769  
registration change of residence forms, and voter registration 29770  
change of name forms, regardless of whether the application or 29771  
form was distributed by the designated agency, for transmittal to 29772  
the office of the board of elections in the county in which the 29773  
agency is located. Each designated agency and the appropriate 29774  
board of elections shall establish a method by which the voter 29775  
registration applications and other voter registration forms are 29776  
transmitted to that board of elections within five days after 29777  
being accepted by the agency. 29778

(3) If the designated agency is one that is primarily engaged 29779  
in providing services to persons with disabilities under a 29780  
state-funded program, and that agency provides services to a 29781  
person with disabilities at a person's home, provide the services 29782  
described in divisions (E)(1) and (2) of this section at the 29783  
person's home; 29784

(4) Keep as confidential, except as required by the secretary 29785  
of state for record-keeping purposes, the identity of an agency 29786  
through which a person registered to vote or updated the person's 29787  
voter registration records, and information relating to a 29788  
declination to register to vote made in connection with a voter 29789  
registration application issued by a designated agency. 29790

(F) The secretary of state shall prepare and transmit written 29791  
instructions on the implementation of the voter registration 29792  
program within each designated agency, public high school and 29793  
vocational school, public library, and office of a county 29794  
treasurer. The instructions shall include directions as follows: 29795

(1) That each person designated to assist with voter 29796  
registration maintain strict neutrality with respect to a person's 29797  
political philosophies, a person's right to register or decline to 29798  
register, and any other matter that may influence a person's 29799  
decision to register or not register to vote; 29800

(2) That each person designated to assist with voter 29801  
registration not seek to influence a person's decision to register 29802  
or not register to vote, not display or demonstrate any political 29803  
preference or party allegiance, and not make any statement to a 29804  
person or take any action the purpose or effect of which is to 29805  
lead a person to believe that a decision to register or not 29806  
register has any bearing on the availability of services or 29807  
benefits offered, on the grade in a particular class in school, or 29808  
on credit for a particular class in school; 29809

(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 29840  
school district's schools."; 29841

(5) Establish a method by which the voter registration 29842  
application and other voter registration forms are transmitted to 29843  
the board of elections within five days after being accepted by 29844  
the public high school or vocational school. 29845

(H) Any person employed by the designated agency, public high 29846  
school or vocational school, public library, or office of a county 29847  
treasurer may be designated to assist with voter registration 29848  
pursuant to this section. The designated agency, public high 29849  
school or vocational school, public library, or office of a county 29850  
treasurer shall provide the designated person, and make available 29851  
such space as may be necessary, without charge to the county or 29852  
state. 29853

(I) The secretary of state shall prepare and cause to be 29854  
displayed in a prominent location in each designated agency a 29855  
notice that identifies the person designated to assist with voter 29856  
registration, the nature of that person's duties, and where and 29857  
when that person is available for assisting in the registration of 29858  
voters. 29859

A designated agency may furnish additional supplies and 29860  
services to disseminate information to increase public awareness 29861  
of the existence of a person designated to assist with voter 29862  
registration in every designated agency. 29863

(J) This section does not limit any authority a board of 29864  
education, superintendent, or principal has to allow, sponsor, or 29865  
promote voluntary election registration programs within a high 29866  
school or vocational school, including programs in which pupils 29867  
serve as persons designated to assist with voter registration, 29868  
provided that no pupil is required to participate. 29869

(K) Each public library and office of the county treasurer 29870

shall establish a method by which voter registration forms are 29871  
transmitted to the board of elections within five days after being 29872  
accepted by the public library or office of the county treasurer. 29873

(L) The department of job and family services and its 29874  
departments, divisions, and programs shall limit administration of 29875  
the aspects of the voter registration program for the department 29876  
to the requirements prescribed by the secretary of state and the 29877  
requirements of this section and the National Voter Registration 29878  
Act of 1993. 29879

**Sec. 3505.01.** On the sixtieth day before the day of the next 29880  
general election, the secretary of state shall certify to the 29881  
board of elections of each county the forms of the official 29882  
ballots to be used at ~~such~~ that general election, together with 29883  
the names of the candidates to be printed ~~thereon~~ on those ballots 29884  
whose candidacy is to be submitted to the electors of the entire 29885  
state. In the case of the presidential ballot for a general 29886  
election ~~such, that~~ certification shall be made on the ~~sixtieth~~ 29887  
fifty-fifth day before the day of the general election. On the 29888  
seventy-fifth day before a special election to be held on the day 29889  
specified by division (E) of section 3501.01 of the Revised Code 29890  
for the holding of a primary election, designated by the general 29891  
assembly for the purpose of submitting to the voters of the state 29892  
constitutional amendments proposed by the general assembly, the 29893  
secretary of state shall certify to the board of elections of each 29894  
county the forms of the official ballots to be used at ~~such~~ that 29895  
election. 29896

The board of the most populous county in each district 29897  
comprised of more than one county but less than all of the 29898  
counties of the state, in which there are candidates whose 29899  
candidacies are to be submitted to the electors of ~~such~~ that 29900  
district, shall, on the sixtieth day before the day of the next 29901

general election, certify to the board of each county in ~~such the~~ 29902  
district the names of ~~such those~~ candidates to be printed on such 29903  
ballots. 29904

The board of a county in which the major portion of a 29905  
subdivision, located in more than one county, is located shall, on 29906  
the sixtieth day before the day of the next general election, 29907  
certify to the board of each county in which other portions of 29908  
~~such subdivisions~~ that subdivision are located the names of 29909  
candidates whose candidacies are to be submitted to the electors 29910  
of ~~such that~~ subdivision, to be printed on such ballots. 29911

If, subsequently to the sixtieth day before, or in the case 29912  
of a presidential ballot for a general election the fifty-fifth 29913  
day before, and prior to the tenth day before the day of ~~such a~~ 29914  
general election, a certificate is filed with the secretary of 29915  
state to fill a vacancy caused by the death of a candidate, the 29916  
secretary of state shall forthwith make a supplemental 29917  
certification to the board of each county amending and correcting 29918  
~~his~~ the secretary of state's original certification provided for 29919  
in the first paragraph of this section. If, within ~~such that~~ time, 29920  
such a certificate is filed with the board of the most populous 29921  
county in a district comprised of more than one county but less 29922  
than all of the counties of the state, or with the board of a 29923  
county in which the major portion of the population of a 29924  
subdivision, located in more than one county, is located, ~~such the~~ 29925  
board with which ~~such a~~ the certificate is filed shall forthwith 29926  
make a supplemental certification to the board of each county in 29927  
~~such the~~ district or to the board of each county in which other 29928  
portions of ~~such the~~ subdivision are located, amending and 29929  
correcting its original certification provided for in the second 29930  
and third paragraphs of this section. If, at the time such 29931  
supplemental certification is received by a board, ballots 29932  
carrying the name of the deceased candidate have been printed, 29933

~~such~~ the board shall cause strips of paper bearing the name of the 29934  
candidate certified to fill ~~such~~ the vacancy to be printed and 29935  
pasted on ~~such~~ those ballots so as to cover the name of the 29936  
deceased candidate, except that in voting places using marking 29937  
devices, the board shall cause strips of paper bearing the revised 29938  
list of candidates for the office, after certification of a 29939  
candidate to fill ~~such~~ the vacancy, to be printed and pasted on 29940  
~~such~~ the ballot ~~card~~ cards so as to cover the names of candidates 29941  
shown prior to the new certification, before such ballots are 29942  
delivered to electors. 29943

**Sec. 3505.061.** (A) The Ohio ballot board, as authorized by 29944  
Section 1 of Article XVI, Ohio Constitution, shall consist of the 29945  
secretary of state and four appointed members. No more than two of 29946  
the appointed members shall be of the same political party. One of 29947  
the members shall be appointed by the president of the senate, one 29948  
shall be appointed by the minority leader of the senate, one shall 29949  
be appointed by the speaker of the house of representatives, and 29950  
one shall be appointed by the minority leader of the house of 29951  
representatives. The appointments shall be made no later than the 29952  
last Monday in January in the year in which the appointments are 29953  
to be made. If any appointment is not so made, the secretary of 29954  
state, acting in place of the person otherwise required to make 29955  
the appointment, shall appoint as many qualified members 29956  
affiliated with the appropriate political party as are necessary. 29957

(B)(1) The initial appointees to the board shall serve until 29958  
the first Monday in February, 1977. Thereafter, terms of office 29959  
shall be for four years, each term ending on the first Monday in 29960  
February. The term of the secretary of state on the board shall 29961  
coincide with the secretary of state's term of office. Except as 29962  
otherwise provided in division (B)(2) of this section, division 29963  
(B)(2) of section 3505.063, and division (B)(2) of section 3519.03 29964  
of the Revised Code, each appointed member shall hold office from 29965

the date of appointment until the end of the term for which the member was appointed. Except as otherwise provided in those divisions, any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Except as otherwise provided in those divisions, any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or a period of sixty days has elapsed, whichever occurs first. Any vacancy occurring on the board shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy shall be of the same political party as that required of the member whom the member replaces.

(2) The term of office of a member of the board who also is a member of the general assembly and who was appointed to the board by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, or the minority leader of the house of representatives shall end on the earlier of the following dates:

(a) The ending date of the ballot board term for which the member was appointed;

(b) The ending date of the member's term as a member of the general assembly.

(C) Members of the board shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

(D) The secretary of state shall be the chairperson of the board, and the secretary of state or the secretary of state's representative shall have a vote equal to that of any other member. The vice-chairperson shall act as chairperson in the absence or disability of the chairperson, or during a vacancy in

that office. The board shall meet after notice of at least seven 29997  
days at a time and place determined by the chairperson. At its 29998  
first meeting, the board shall elect a vice-chairperson from among 29999  
its members for a term of two years, and it shall adopt rules for 30000  
its procedures. After the first meeting, the board shall meet at 30001  
the call of the chairperson or upon the written request of three 30002  
other members. Three members constitute a quorum. No action shall 30003  
be taken without the concurrence of three members. 30004

(E) The secretary of state shall provide technical, 30005  
professional, and clerical employees as necessary for the board to 30006  
carry out its duties. 30007

**Sec. 3505.08.** (A) Ballots shall be provided by the board of 30008  
elections for all general and special elections. ~~Such~~ The ballots 30009  
shall be printed with black ink on No. 2 white book paper fifty 30010  
pounds in weight per ream assuming such ream to consist of five 30011  
hundred sheets of such paper twenty-five by thirty-eight inches in 30012  
size. Each ballot shall have attached at the top two stubs, each 30013  
of the width of the ballot and not less than one-half inch in 30014  
length, except that, if the board of elections has an alternate 30015  
method to account for the ballots that the secretary of state has 30016  
authorized, each ballot may have only one stub that shall be the 30017  
width of the ballot and not less than one-half inch in length. In 30018  
the case of ballots with two stubs, the stubs shall be separated 30019  
from the ballot and from each other by perforated lines. The top 30020  
stub shall be known as Stub B and shall have printed on its face 30021  
"Stub B." The other stub shall be known as Stub A and shall have 30022  
printed on its face "Stub A." Each stub shall also have printed on 30023  
its face "Consecutive Number ....." ~~Each~~ 30024

Each ballot of each kind of ballot provided for use in each 30025  
precinct shall be numbered consecutively beginning with number 1 30026  
by printing such number upon both of the stubs attached ~~thereto~~ to 30027

the ballot. On ballots bearing the names of candidates, each 30028  
candidate's name shall be printed in twelve point boldface upper 30029  
case type in an enclosed rectangular space, and an enclosed blank 30030  
rectangular space shall be provided at the left ~~thereof~~ of the 30031  
candidate's name. The name of the political party of a candidate 30032  
nominated at a primary election or certified by a party committee 30033  
shall be printed in ten point lightface upper and lower case type 30034  
and shall be separated by a two point blank space. The name of 30035  
each candidate shall be indented one space within ~~such~~ the 30036  
enclosed rectangular space, and the name of the political party 30037  
shall be indented two spaces within ~~such~~ the enclosed rectangular 30038  
space. ~~The~~ 30039

The title of each office on ~~such~~ the ballots shall be printed 30040  
in twelve point boldface upper and lower case type in a separate 30041  
enclosed rectangular space. A four point rule shall separate the 30042  
name of a candidate or a group of candidates for the same office 30043  
from the title of the office next appearing below on the ballot, 30044  
~~and~~; a two point rule shall separate the title of the office from 30045  
the names of candidates; and a one point rule shall separate names 30046  
of candidates. Headings shall be printed in display Roman type. 30047  
When the names of several candidates are grouped together as 30048  
candidates for the same office, there shall be printed on ~~such~~ the 30049  
ballots immediately below the title of ~~such~~ the office and within 30050  
the separate rectangular space in which ~~such~~ the title is printed 30051  
"Vote for not more than . . . . .," in six point boldface upper and 30052  
lower case filling the blank space with that number which will 30053  
indicate the number of persons who may be lawfully elected to ~~such~~ 30054  
the office. 30055

Columns on ballots shall be separated from each other by a 30056  
heavy vertical border or solid line at least one-eighth of an inch 30057  
wide, and a similar vertical border or line shall enclose the left 30058  
and right side of ballots, ~~and ballots~~. Ballots shall be trimmed 30059

along the sides close to such lines. 30060

The ballots provided for by this section shall be comprised 30061  
of four kinds of ballots designated as follows: ~~(A)~~ office type 30062  
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 30063  
~~(D)~~ and presidential ballot. 30064

On the back of each office type ballot shall be printed 30065  
"Official Office Type Ballot;" on the back of each nonpartisan 30066  
ballot shall be printed "Official Nonpartisan Ballot;" on the back 30067  
of each questions and issues ballot shall be printed "Official 30068  
Questions and Issues Ballot;" and on the back of each presidential 30069  
ballot shall be printed "Official Presidential Ballot." On the 30070  
back of every ballot also shall be printed the date of the 30071  
election at which the ballot is used and the facsimile signatures 30072  
of the members of the board of the county in which the ballot is 30073  
used. For the purpose of identifying the kind of ballot, the back 30074  
of every ballot may be numbered in ~~such the~~ order ~~as~~ the board 30075  
shall determine. ~~Such~~ The numbers shall be printed in not less 30076  
than thirty-six point type above the words "Official Office Type 30077  
Ballot," "Official Nonpartisan Ballot," "Official Questions and 30078  
Issues Ballot," or "Official Presidential Ballot," as the case may 30079  
be. Ballot boxes bearing corresponding numbers shall be furnished 30080  
for each precinct in which the above-described numbered ballots 30081  
are used. 30082

On the back of every ballot used, there shall be a solid 30083  
black line printed opposite the blank rectangular space that is 30084  
used to mark the choice of the voter. This line shall be printed 30085  
wide enough so that the mark in the blank rectangular space will 30086  
not be visible from the back side of the ballot. 30087

Sample ballots may be printed by the board of elections for 30088  
all general elections. ~~Such~~ The ballots shall be printed on 30089  
colored paper, and "Sample Ballot" shall be plainly printed in 30090  
boldface type on the face of each ballot. In counties of less than 30091

one hundred thousand population, the board may print not more than 30092  
five hundred sample ballots; in all other counties, it may print 30093  
not more than one thousand sample ballots. ~~Such~~ The sample ballots 30094  
shall not be distributed by a political party or a candidate, nor 30095  
shall a political party or candidate cause their title or name to 30096  
be imprinted ~~thereon~~ on sample ballots. 30097

(B) Notwithstanding division (A) of this section, in 30098  
approving the form of an official ballot, the secretary of state 30099  
may authorize the use of fonts, type face settings, and ballot 30100  
formats other than those prescribed in that division. 30101

**Sec. 3505.10.** (A) On the presidential ballot below the stubs 30102  
at the top of the face of the ballot shall be printed "Official 30103  
Presidential Ballot" centered between the side edges of the 30104  
ballot. Below "Official Presidential Ballot" shall be printed a 30105  
heavy line centered between the side edges of the ballot. Below 30106  
the line shall be printed "Instruction to Voters" centered between 30107  
the side edges of the ballot, and below ~~such~~ those words shall be 30108  
printed the following instructions: 30109

~~"(A)~~(1) To vote for the candidates for president and 30110  
vice-president whose names are printed below, record your vote in 30111  
the manner provided next to the names of such candidates. That 30112  
recording of the vote will be counted as a vote for each of the 30113  
candidates for presidential elector whose names have been 30114  
certified to the secretary of state and who are members of the 30115  
same political party as the nominees for president and 30116  
vice-president. A recording of the vote for independent candidates 30117  
for president and vice-president shall be counted as a vote for 30118  
the presidential electors filed by such candidates with the 30119  
secretary of state. 30120

~~(B)~~(2) To vote for candidates for president and 30121  
vice-president in the blank space below, record your vote in the 30122

manner provided and write the names of your choice for president 30123  
and vice-president under the respective headings provided for 30124  
those offices. Such write-in will be counted as a vote for the 30125  
candidates' presidential electors whose names have been properly 30126  
certified to the secretary of state. 30127

~~(C)~~(3) If you tear, soil, deface, or erroneously mark this 30128  
ballot, return it to the precinct election officers or, if you 30129  
cannot return it, notify the precinct election officers, and 30130  
obtain another ballot." 30131

(B) Below ~~such~~ those instructions to the voter shall be 30132  
printed a single vertical column of enclosed rectangular spaces 30133  
equal in number to the number of presidential candidates plus one 30134  
additional space for write-in candidates. Each of ~~such~~ those 30135  
rectangular spaces shall be enclosed by a heavy line along each of 30136  
its four sides, and such spaces shall be separated from each other 30137  
by one-half inch of open space. 30138

In each of ~~such~~ those enclosed rectangular spaces, except the 30139  
space provided for write-in candidates, shall be printed the names 30140  
of the candidates for president and vice-president certified to 30141  
the secretary of state or nominated as such in one of the 30142  
following manners: 30143

(1) Nominated by the national convention of a political party 30144  
to which delegates and alternates were elected in this state at 30145  
the next preceding primary election ~~and the names of those~~ 30146  
~~independent candidates nominated.~~ A political party certifying 30147  
candidates so nominated shall certify the names of those 30148  
candidates to the secretary of state on or before the sixtieth day 30149  
before the day of the general election. 30150

(2) Nominated by nominating petition in accordance with 30151  
section 3513.257 of the Revised Code. ~~The~~ Such a petition shall be 30152  
filed on or before the seventy-fifth day before the day of the 30153

general election to provide sufficient time to verify the 30154  
sufficiency and accuracy of signatures on it. 30155

(3) Certified to the secretary of state for placement on the 30156  
presidential ballot by authorized officials of an intermediate or 30157  
minor political party that has held a state or national convention 30158  
for the purpose of choosing those candidates or that may, without 30159  
a convention, certify those candidates in accordance with the 30160  
procedure authorized by its party rules. The officials shall 30161  
certify the names of those candidates to the secretary of state on 30162  
or before the sixtieth day before the day of the general election. 30163  
The certification shall be accompanied by a designation of a 30164  
sufficient number of presidential electors to satisfy the 30165  
requirements of law. 30166

The names of candidates for electors of president and 30167  
vice-president shall not be placed on the ballot, but shall be 30168  
certified to the secretary of state as required by sections 30169  
3513.11 and 3513.257 of the Revised Code. ~~The names of candidates~~ 30170  
~~for president and vice president may be certified to the secretary~~ 30171  
~~of state, for placement on the presidential ballot, by authorized~~ 30172  
~~officials of an intermediate or minor political party which has~~ 30173  
~~held a state or national convention for the purpose of choosing~~ 30174  
~~such candidates, or which may, without convention, certify such~~ 30175  
~~candidates in accordance with the procedure authorized by its~~ 30176  
~~party rules. Certification to the secretary of state of such~~ 30177  
~~candidates shall be made on or before the seventy fifth day before~~ 30178  
~~the day of the general election and shall be accompanied by~~ 30179  
~~designation of a sufficient number of presidential electors to~~ 30180  
~~satisfy the requirements of law. A vote for any of such candidates~~ 30181  
for president and vice-president shall be a vote for the electors 30182  
of ~~such~~ those candidates whose names have been certified to the 30183  
secretary of state. 30184

(C) The arrangement of the printing in each of ~~such~~ the 30185

enclosed rectangular spaces shall be substantially as follows: 30186  
Near the top and centered within the rectangular space shall be 30187  
printed "For President" in ten-point boldface upper and lower case 30188  
type. Below "For President" shall be printed the name of the 30189  
candidate for president in twelve-point boldface upper case type. 30190  
Below the name of the candidate for president shall be printed the 30191  
name of the political party by which ~~such~~ that candidate for 30192  
president was nominated in eight-point lightface upper and lower 30193  
case type. Below the name of such political party shall be printed 30194  
"For Vice-President" in ten-point boldface upper and lower case 30195  
type. Below "For Vice-President" shall be printed the name of the 30196  
candidate for vice-president in twelve-point boldface upper case 30197  
type. Below the name of the candidate for vice-president shall be 30198  
printed the name of the political party by which ~~such~~ that 30199  
candidate for vice-president was nominated in eight-point 30200  
lightface upper and lower case type. No political identification 30201  
or name of any political party shall be printed below the names of 30202  
presidential and vice-presidential candidates nominated by 30203  
petition. 30204

The rectangular spaces on the ballot described in this 30205  
section shall be rotated and printed as provided in section 30206  
3505.03 of the Revised Code. 30207

**Sec. 3517.092.** (A) As used in this section: 30208

(1) "Appointing authority" has the same meaning as in section 30209  
124.01 of the Revised Code. 30210

(2) "State elected officer" means any person appointed or 30211  
elected to a state elective office. 30212

(3) "State elective office" means any of the offices of 30213  
governor, lieutenant governor, secretary of state, auditor of 30214  
state, treasurer of state, attorney general, member of the state 30215  
board of education, member of the general assembly, and justice 30216

and chief justice of the supreme court. 30217

(4) "County elected officer" means any person appointed or 30218  
elected to a county elective office. 30219

(5) "County elective office" means any of the offices of 30220  
county auditor, county treasurer, clerk of the court of common 30221  
pleas, sheriff, county recorder, county engineer, county 30222  
commissioner, prosecuting attorney, and coroner. 30223

(6) "Contribution" includes a contribution to any political 30224  
party, campaign committee, political action committee, political 30225  
contributing entity, or legislative campaign fund. 30226

(B) No state elected officer, no campaign committee of such 30227  
an officer, and no other person or entity shall knowingly solicit 30228  
or accept a contribution on behalf of that officer or that 30229  
officer's campaign committee from any of the following: 30230

(1) A state employee whose appointing authority is the state 30231  
elected officer; 30232

(2) A state employee whose appointing authority is authorized 30233  
or required by law to be appointed by the state elected officer; 30234

(3) A state employee who functions in or is employed in or by 30235  
the same public agency, department, division, or office as the 30236  
state elected officer. 30237

(C) No candidate for a state elective office, no campaign 30238  
committee of such a candidate, and no other person or entity shall 30239  
knowingly solicit or accept a contribution on behalf of that 30240  
candidate or that candidate's campaign committee from any of the 30241  
following: 30242

(1) A state employee at the time of the solicitation, whose 30243  
appointing authority will be the candidate, if elected; 30244

(2) A state employee at the time of the solicitation, whose 30245  
appointing authority will be appointed by the candidate, if 30246

elected, as authorized or required by law; 30247

(3) A state employee at the time of the solicitation, who 30248  
will function in or be employed in or by the same public agency, 30249  
department, division, or office as the candidate, if elected. 30250

(D) No county elected officer, no campaign committee of such 30251  
an officer, and no other person or entity shall knowingly solicit 30252  
a contribution on behalf of that officer or that officer's 30253  
campaign committee from any of the following: 30254

(1) A county employee whose appointing authority is the 30255  
county elected officer; 30256

(2) A county employee whose appointing authority is 30257  
authorized or required by law to be appointed by the county 30258  
elected officer; 30259

(3) A county employee who functions in or is employed in or 30260  
by the same public agency, department, division, or office as the 30261  
county elected officer. 30262

(E) No candidate for a county elective office, no campaign 30263  
committee of such a candidate, and no other person or entity shall 30264  
knowingly solicit a contribution on behalf of that candidate or 30265  
that candidate's campaign committee from any of the following: 30266

(1) A county employee at the time of the solicitation, whose 30267  
appointing authority will be the candidate, if elected; 30268

(2) A county employee at the time of the solicitation, whose 30269  
appointing authority will be appointed by the candidate, if 30270  
elected, as authorized or required by law; 30271

(3) A county employee at the time of the solicitation, who 30272  
will function in or be employed in or by the same public agency, 30273  
department, division, or office as the candidate, if elected. 30274

(F)(1) No public employee shall solicit a contribution from 30275  
any person while the public employee is performing the public 30276

employee's official duties or in those areas of a public building 30277  
where official business is transacted or conducted. 30278

(2) No person shall solicit a contribution from any public 30279  
employee while the public employee is performing the public 30280  
employee's official duties or is in those areas of a public 30281  
building where official business is transacted or conducted. 30282

(3) As used in division (F) of this section, "public 30283  
employee" does not include any person holding an elective office. 30284

(G) The prohibitions in divisions (B), (C), (D), (E), and (F) 30285  
of this section are in addition to the prohibitions in sections 30286  
124.57, ~~1553.09~~, 3304.22, and 4503.032 of the Revised Code. 30287

**Sec. 3701.02.** There is hereby created a department of health. 30288  
The department shall consist of a director of health ~~and~~, a public 30289  
health council, and the Ohio occupational therapy, physical 30290  
therapy, and athletic trainers board. 30291

**Sec. 3701.021.** (A) The public health council shall adopt, in 30292  
accordance with Chapter 119. of the Revised Code, such rules as 30293  
are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 30294  
of the Revised Code, including, but not limited to, rules to 30295  
establish the following: 30296

(1) Medical and financial eligibility requirements for the 30297  
program for medically handicapped children; 30298

(2) Eligibility requirements for providers of services for 30299  
medically handicapped children; 30300

(3) Procedures to be followed by the department of health in 30301  
disqualifying providers for violating requirements adopted under 30302  
division (A)(2) of this section; 30303

(4) Procedures to be used by the department regarding 30304  
application for diagnostic services under division (B) of section 30305

3701.023 of the Revised Code and payment for those services under division (E) of that section;	30306 30307
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	30308 30309
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;	30310 30311 30312 30313 30314
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	30315 30316 30317
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	30318 30319
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	30320 30321 30322
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	30323 30324 30325
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	30326 30327 30328
<u>(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.</u>	30329 30330
(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to <del>3701.028</del> <u>3701.0210</u> of the Revised Code.	30331 30332 30333 30334

Sec. 3701.022. As used in sections 3701.021 to <del>3701.028</del>	30335
<u>3701.0210</u> of the Revised Code:	30336
(A) "Medically handicapped child" means an Ohio resident	30337
under twenty-one years of age who suffers primarily from an	30338
organic disease, defect, or a congenital or acquired physically	30339
handicapping and associated condition that may hinder the	30340
achievement of normal growth and development.	30341
(B) "Provider" means a health professional, hospital, medical	30342
equipment supplier, and any individual, group, or agency that is	30343
approved by the department of health pursuant to division (C) of	30344
section 3701.023 of the Revised Code and that provides or intends	30345
to provide goods or services to a child who is eligible for the	30346
program for medically handicapped children.	30347
(C) "Service coordination" means case management services	30348
provided to medically handicapped children that promote effective	30349
and efficient organization and utilization of public and private	30350
resources and ensure that care rendered is family-centered,	30351
community-based, and coordinated.	30352
(D)(1) "Third party" means any person or government entity	30353
other than the following:	30354
(a) A medically handicapped child participating in the	30355
program for medically handicapped children or the child's parent	30356
or guardian;	30357
(b) The department or any program administered by the	30358
department, including the "Maternal and Child Health Block Grant,"	30359
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42	30360
U.S.C.A. 701, as amended;	30361
(c) The "caring program for children" operated by the	30362
nonprofit community mutual insurance corporation.	30363
(2) "Third party" includes all of the following:	30364

(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 30395  
determined under division (A)(1) of this section and any amounts 30396  
retained under divisions (A)(2) and (3) of this section. 30397

All amounts collected by the department under division (A)(1) 30398  
of this section shall be deposited into the state treasury to the 30399  
credit of the medically handicapped children-county assessment 30400  
fund, which is hereby created. The fund shall be used by the 30401  
department to comply with sections 3701.021 to 3701.028 of the 30402  
Revised Code. 30403

(2) The department, in accordance with rules adopted under 30404  
section 3701.021 of the Revised Code, may allow each county to 30405  
retain up to ten per cent of the amount determined under division 30406  
(A)(1) of this section to provide funds to city or general health 30407  
districts of the county with which the districts shall provide 30408  
service coordination, public health nursing, or transportation 30409  
services for medically handicapped children. 30410

(3) In addition to any amount retained under division (A)(2) 30411  
of this section, the department, in accordance with rules adopted 30412  
under section 3701.021 of the Revised Code, may allow counties 30413  
that it determines have significant numbers of potentially 30414  
eligible medically handicapped children to retain an amount equal 30415  
to the difference between: 30416

(a) Twenty-five per cent of the amount determined under 30417  
division (A)(1) of this section; 30418

(b) Any amount retained under division (A)(2) of this 30419  
section. 30420

Counties shall use amounts retained under division (A)(3) of 30421  
this section to provide funds to city or general health districts 30422  
of the county with which the districts shall conduct outreach 30423  
activities to increase participation in the program for medically 30424  
handicapped children. 30425

(4) Prior to any increase in the millage charged to a county, 30426  
the public health council shall hold a public hearing on the 30427  
proposed increase and shall give notice of the hearing to each 30428  
board of county commissioners that would be affected by the 30429  
increase at least thirty days prior to the date set for the 30430  
hearing. Any county commissioner may appear and give testimony at 30431  
the hearing. Any increase in the millage any county is required to 30432  
provide for the program for medically handicapped children shall 30433  
be determined, and notice of the amount of the increase shall be 30434  
provided to each affected board of county commissioners, no later 30435  
than the first day of June of the fiscal year next preceding the 30436  
fiscal year in which the increase will take effect. 30437

(B) Each board of county commissioners shall establish a 30438  
medically handicapped children's fund and shall appropriate 30439  
thereto an amount, determined in accordance with division (A)(1) 30440  
of this section, for the county's share in providing medical, 30441  
surgical, and other aid to medically handicapped children residing 30442  
in such county and for the purposes specified in divisions (A)(2) 30443  
and (3) of this section. Each county shall use money retained 30444  
under divisions (A)(2) and (3) of this section only for the 30445  
purposes specified in those divisions. 30446

Sec. 3701.029. Subject to available funds, the department of 30447  
health shall establish and administer a hemophilia program to 30448  
provide payment of health insurance premiums for Ohio residents 30449  
who meet all of the following requirements: 30450

(A) Have been diagnosed with hemophilia or a related bleeding 30451  
disorder; 30452

(B) Are at least twenty-one years of age; 30453

(C) Meet the eligibility requirements established by rules 30454  
adopted under division (A)(12) of section 3701.021 of the Revised 30455

Code. 30456

**Sec. ~~3701.145~~ 3701.0210.** The director of health medically 30457  
handicapped children's medical advisory council shall establish 30458  
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 30459  
director ~~and the department~~ of health and council on all matters 30460  
pertaining to the care and treatment of persons with hemophilia. 30461  
~~The council~~ The duties of the subcommittee include, but are not 30462  
limited to, the monitoring of care and treatment of children and 30463  
adults who suffer from hemophilia or from other similar blood 30464  
disorders. 30465

The subcommittee shall consist of not fewer than ~~nineteen~~ 30466  
fifteen members, each of whom shall be appointed ~~by the director~~ 30467  
to terms of four years. The members of the ~~council~~ subcommittee 30468  
shall elect a chairperson from among the appointed membership to 30469  
serve a term of two years. Members of the ~~council~~ subcommittee 30470  
shall serve without compensation, except that they may be 30471  
reimbursed for travel expenses to and from meetings of the ~~council~~ 30472  
subcommittee. 30473

Members shall be appointed to represent all geographic areas 30474  
of this state. Not fewer than five members of the ~~council~~ 30475  
subcommittee shall be persons with hemophilia or family members of 30476  
persons with hemophilia. Not fewer than five members shall be 30477  
providers of health care services to persons with hemophilia. Not 30478  
fewer than five members shall be experts in fields of importance 30479  
to treatment of persons with hemophilia, including experts in 30480  
infectious diseases, insurance, and law. 30481

~~The council shall submit to the director of health, the~~ 30482  
~~governor, and the general assembly, a report no later than the~~ 30483  
~~thirtieth day of September of each year summarizing the current~~ 30484  
~~status and needs of persons in this state with hemophilia and of~~ 30485  
~~family members of persons with hemophilia.~~ 30486

~~Notwithstanding section 101.83 of the Revised Code, that~~ 30487  
~~section does not apply to the medically handicapped children's~~ 30488  
~~medical advisory council hemophilia advisory subcommittee, and the~~ 30489  
~~subcommittee shall not expire under that section.~~ 30490

**Sec. 3701.141.** (A) There is hereby created in the department 30491  
of health the ~~office of women's health initiatives~~ program, 30492  
~~consisting of the chief of the office and an administrative~~ 30493  
~~assistant. To the extent of available funds, other positions~~ 30494  
~~determined necessary and relevant by the director of health may be~~ 30495  
~~added. The administrative assistant and all other employees~~ 30496  
~~assigned to the office shall report to the chief and the chief to~~ 30497  
~~the director or the deputy specified by the director.~~ 30498

(B) To the extent funds are available, the ~~office of women's~~ 30499  
health ~~initiatives~~ program shall: 30500

(1) Identify, review, and assist the director in the 30501  
coordination of programs and resources the department of health is 30502  
committing to women's health concerns, including the department's 30503  
women's and infants' program activities; 30504

(2) Advocate for women's health by requesting that the 30505  
department conduct, sponsor, encourage, or fund research; 30506  
establish additional programs regarding women's health concerns as 30507  
needed; and monitor the research and program efforts; 30508

(3) Collect, classify, and store relevant research conducted 30509  
by the department or other entities, and provide, unless otherwise 30510  
prohibited by law, interested persons access to research results; 30511

(4) ~~Generate~~ Apply for grant ~~activities~~ opportunities. 30512

~~(C) Prior to the director's report to the governor on the~~ 30513  
~~department's biennial budget request, the office of women's health~~ 30514  
~~initiatives shall submit in writing to the director of health a~~ 30515  
~~biennial report of recommended programs, projects, and research to~~ 30516

~~address critical issues in women's health.~~ 30517

**Sec. 3701.342.** After consultation with the public health 30518  
standards task force established under section 3701.343 of the 30519  
Revised Code, the public health council shall adopt rules 30520  
establishing minimum standards and optimum achievable standards 30521  
for boards of health and local health departments. The minimum 30522  
standards shall assure that boards of health and local health 30523  
departments provide for the following: 30524

(A) Analysis and prevention of communicable disease; 30525

(B) Analysis of the causes of, and appropriate treatment for, 30526  
the leading causes of morbidity and mortality; 30527

(C) The administration and management of the local health 30528  
department; 30529

(D) Access to primary health care by medically underserved 30530  
individuals; 30531

(E) Environmental health management programs; 30532

(F) Health promotion services designed to encourage 30533  
individual and community wellness. 30534

The public health council shall adopt rules establishing a 30535  
formula for distribution of state health district subsidy funds to 30536  
boards of health and local health departments. The formula shall 30537  
provide no subsidy funds to a board or department unless it meets 30538  
minimum standards and shall provide higher funding levels for 30539  
boards and districts that meet optimum achievable standards. 30540

~~Notwithstanding section 119.03 of the Revised Code, rules 30541  
adopted under this section shall not take effect unless approved 30542  
by concurrent resolution of the general assembly.~~ 30543

**Sec. 3701.61.** (A) The department of health shall establish 30544  
the help me grow program for the purpose of encouraging early 30545

prenatal and well-baby care. The program shall include 30546  
distributing subsidies to counties to provide the following 30547  
services: 30548

(1) Home-visiting services to newborn infants and their 30549  
families; 30550

(2) Services to infants and toddlers under three years of age 30551  
who are at risk for, or who have, a developmental delay or 30552  
disability and their families. 30553

(B) The department shall not provide home-visiting services 30554  
under the help me grow program unless requested in writing by a 30555  
parent of the infant or toddler. 30556

(C) Pursuant to Chapter 119. of the Revised Code, the 30557  
department shall adopt rules that are necessary and proper to 30558  
implement this section. 30559

**Sec. 3701.82.** (A) A brazier, salamander, space heater, room 30560  
heater, furnace, water heater, or other burner or heater using 30561  
wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, 30562  
liquid petroleum gas, or similar fuel, and tending to give off 30563  
carbon monoxide or other harmful gases: 30564

(1) When used in living quarters, or in any enclosed building 30565  
or space in which persons are usually present, shall be used with 30566  
a flue or vent so designed, installed, and maintained as to vent 30567  
the products of combustion outdoors; except in storage, factory, 30568  
or industrial buildings which are provided with sufficient 30569  
ventilation to avoid the danger of carbon monoxide poisoning; 30570

(2) When used as a portable or temporary burner or heater at 30571  
a construction site, or in a warehouse, shed, or structure in 30572  
which persons are temporarily present, shall be vented as provided 30573  
in division (A)(1) of this section, or used with sufficient 30574  
ventilation to avoid the danger of carbon monoxide poisoning. 30575

(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, 30607  
natural gas, or liquid petroleum gas heater unless the 30608  
manufacturer provides with the heater written instructions that 30609  
comply with any rules adopted under this division. 30610

(G) No product labeled as a fuel additive for kerosene 30611  
heaters and having a flash point below one hundred degrees 30612  
fahrenheit or thirty-seven and eight-tenths degrees centigrade 30613  
shall be sold, offered for sale, or used in any kerosene space 30614  
heater. 30615

(H) No device that prohibits any safety feature on a 30616  
kerosene, natural gas, or liquid petroleum gas space heater from 30617  
operating shall be sold, offered for sale, or used in connection 30618  
with any kerosene, natural gas, or liquid petroleum gas space 30619  
heater. 30620

(I) No person shall sell or offer for sale any 30621  
kerosene-fired, natural gas, or liquid petroleum gas-fired heater 30622  
that is not exempt from division (A) of this section unless it is 30623  
marked conspicuously by the manufacturer on the container with the 30624  
phrase "Not Approved For Home Use." 30625

(J) No person shall use a cabinet-type, liquid petroleum 30626  
gas-fired heater having a fuel source within the heater, inside 30627  
any building, except as permitted ~~by the state fire marshal~~ in the 30628  
state fire code adopted ~~by him~~ under section 3737.82 of the 30629  
Revised Code. 30630

**Sec. 3701.83.** (A) There is hereby created in the state 30631  
treasury the general operations fund. Moneys in the fund shall be 30632  
used for the purposes specified in sections 3701.04, 3701.344, 30633  
~~3701.88,~~ 3702.20, 3710.15, 3711.021, 3717.45, 3721.02, 3722.04, 30634  
3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 30635  
3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the 30636  
Revised Code. 30637

(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>	30667
<u>(c) Speech-language pathology;</u>	30668
<u>(d) Occupational therapy;</u>	30669
<u>(e) Medical social services;</u>	30670
<u>(f) Home health aide services.</u>	30671
<u>(4) "Home health aide services" means any of the following services provided by an individual employed with or contracted for by a home health agency:</u>	30672
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	30674
<u>(a) Hands-on bathing or assistance with a tub bath or shower;</u>	30675
<u>(b) Assistance with dressing, ambulation, and toileting;</u>	30676
<u>(c) Catheter care but not insertion;</u>	30677
<u>(d) Meal preparation and feeding.</u>	30678
<u>(5) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.</u>	30679
	30680
<u>(6) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.</u>	30681
	30682
	30683
<u>(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.</u>	30684
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<u>(8) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.</u>	30686
	30687
	30688
<u>(9) "Occupational therapy" has the same meaning as in section 4755.01 of the Revised Code.</u>	30689
	30690
<u>(10) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.</u>	30691
	30692
<u>(11) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or</u>	30693
	30694

independent social worker. 30695

(12) "Speech-language pathology" has the same meaning as in 30696  
section 4753.01 of the Revised Code. 30697

(B)(1) Except as provided in division (I) of this section, 30698  
the chief administrator of a home health agency shall request the 30699  
superintendent of the bureau of criminal identification and 30700  
investigation to conduct a criminal records check with respect to 30701  
each applicant. If the position may involve both responsibility 30702  
for the care, custody, or control of a child and provision of 30703  
direct care to an older adult, the chief administrator shall 30704  
request that the superintendent conduct a single criminal records 30705  
check for the applicant. If an applicant for whom a criminal 30706  
records check request is required under this division does not 30707  
present proof of having been a resident of this state for the 30708  
five-year period immediately prior to the date upon which the 30709  
criminal records check is requested or does not provide evidence 30710  
that within that five-year period the superintendent has requested 30711  
information about the applicant from the federal bureau of 30712  
investigation in a criminal records check, the chief administrator 30713  
shall request that the superintendent obtain information from the 30714  
federal bureau of investigation as a part of the criminal records 30715  
check for the applicant. Even if an applicant for whom a criminal 30716  
records check request is required under this division presents 30717  
proof that the applicant has been a resident of this state for 30718  
that five-year period, the chief administrator may request that 30719  
the superintendent include information from the federal bureau of 30720  
investigation in the criminal records check. 30721

(2) Any person required by division (B)(1) of this section to 30722  
request a criminal records check shall provide to each applicant 30723  
for whom a criminal records check request is required under that 30724  
division a copy of the form prescribed pursuant to division (C)(1) 30725  
of section 109.572 of the Revised Code and a standard impression 30726

sheet prescribed pursuant to division (C)(2) of section 109.572 of 30727  
the Revised Code, obtain the completed form and impression sheet 30728  
from each applicant, and forward the completed form and impression 30729  
sheet to the superintendent of the bureau of criminal 30730  
identification and investigation at the time the chief 30731  
administrator requests a criminal records check pursuant to 30732  
division (B)(1) of this section. 30733

(3) An applicant who receives pursuant to division (B)(2) of 30734  
this section a copy of the form prescribed pursuant to division 30735  
(C)(1) of section 109.572 of the Revised Code and a copy of an 30736  
impression sheet prescribed pursuant to division (C)(2) of that 30737  
section and who is requested to complete the form and provide a 30738  
set of fingerprint impressions shall complete the form or provide 30739  
all the information necessary to complete the form and shall 30740  
provide the impression sheets with the impressions of the 30741  
applicant's fingerprints. If an applicant, upon request, fails to 30742  
provide the information necessary to complete the form or fails to 30743  
provide fingerprint impressions, the home health agency shall not 30744  
employ that applicant for any position for which a criminal 30745  
records check is required by division (B)(1) of this section. 30746

(C)(1) Except as provided in rules adopted by the department 30747  
of health in accordance with division (F) of this section and 30748  
subject to division (C)(3) of this section, no home health agency 30749  
shall employ a person as a person responsible for the care, 30750  
custody, or control of a child if the person previously has been 30751  
convicted of or pleaded guilty to any of the following: 30752

(a) A violation of section 2903.01, 2903.02, 2903.03, 30753  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30754  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 30755  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 30756  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 30757  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 30758

2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 30759  
2925.06, or 3716.11 of the Revised Code, a violation of section 30760  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 30761  
violation of section 2919.23 of the Revised Code that would have 30762  
been a violation of section 2905.04 of the Revised Code as it 30763  
existed prior to July 1, 1996, had the violation been committed 30764  
prior to that date, a violation of section 2925.11 of the Revised 30765  
Code that is not a minor drug possession offense, or felonious 30766  
sexual penetration in violation of former section 2907.12 of the 30767  
Revised Code; 30768

(b) A violation of an existing or former law of this state, 30769  
any other state, or the United States that is substantially 30770  
equivalent to any of the offenses listed in division (C)(1)(a) of 30771  
this section. 30772

(2) Except as provided in rules adopted by the department of 30773  
health in accordance with division (F) of this section and subject 30774  
to division (C)(3) of this section, no home health agency shall 30775  
employ a person in a position that involves providing direct care 30776  
to an older adult if the person previously has been convicted of 30777  
or pleaded guilty to any of the following: 30778

(a) A violation of section 2903.01, 2903.02, 2903.03, 30779  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30780  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 30781  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 30782  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 30783  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 30784  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 30785  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 30786  
2925.22, 2925.23, or 3716.11 of the Revised Code. 30787

(b) A violation of an existing or former law of this state, 30788  
any other state, or the United States that is substantially 30789  
equivalent to any of the offenses listed in division (C)(2)(a) of 30790

this section. 30791

(3)(a) A home health agency may employ conditionally an 30792  
applicant for whom a criminal records check request is required 30793  
under division (B) of this section as a person responsible for the 30794  
care, custody, or control of a child until the criminal records 30795  
check regarding the applicant required by this section is 30796  
completed and the agency receives the results of the criminal 30797  
records check. If the results of the criminal records check 30798  
indicate that, pursuant to division (C)(1) of this section, the 30799  
applicant does not qualify for employment, the agency shall 30800  
release the applicant from employment unless the agency chooses to 30801  
employ the applicant pursuant to division (F) of this section. 30802

(b)(i) A home health agency may employ conditionally an 30803  
applicant for whom a criminal records check request is required 30804  
under division (B) of this section in a position that involves 30805  
providing direct care to an older adult or in a position that 30806  
involves both responsibility for the care, custody, and control of 30807  
a child and the provision of direct care to older adults prior to 30808  
obtaining the results of a criminal records check regarding the 30809  
individual, provided that the agency shall request a criminal 30810  
records check regarding the individual in accordance with division 30811  
(B)(1) of this section not later than five business days after the 30812  
individual begins conditional employment. In the circumstances 30813  
described in division (I)(2) of this section, a home health agency 30814  
may employ conditionally in a position that involves providing 30815  
direct care to an older adult an applicant who has been referred 30816  
to the home health agency by an employment service that supplies 30817  
full-time, part-time, or temporary staff for positions involving 30818  
the direct care of older adults and for whom, pursuant to that 30819  
division, a criminal records check is not required under division 30820  
(B) of this section. In the circumstances described in division 30821  
(I)(4) of this section, a home health agency may employ 30822

conditionally in a position that involves both responsibility for 30823  
the care, custody, and control of a child and the provision of 30824  
direct care to older adults an applicant who has been referred to 30825  
the home health agency by an employment service that supplies 30826  
full-time, part-time, or temporary staff for positions involving 30827  
both responsibility for the care, custody, and control of a child 30828  
and the provision of direct care to older adults and for whom, 30829  
pursuant to that division, a criminal records check is not 30830  
required under division (B) of this section. 30831

(ii) A home health agency that employs an individual 30832  
conditionally under authority of division (C)(3)(b)(i) of this 30833  
section shall terminate the individual's employment if the results 30834  
of the criminal records check requested under division (B)(1) of 30835  
this section or described in division (I)(2) or (4) of this 30836  
section, other than the results of any request for information 30837  
from the federal bureau of investigation, are not obtained within 30838  
the period ending sixty days after the date the request is made. 30839  
Regardless of when the results of the criminal records check are 30840  
obtained, if the individual was employed conditionally in a 30841  
position that involves the provision of direct care to older 30842  
adults and the results indicate that the individual has been 30843  
convicted of or pleaded guilty to any of the offenses listed or 30844  
described in division (C)(2) of this section, or if the individual 30845  
was employed conditionally in a position that involves both 30846  
responsibility for the care, custody, and control of a child and 30847  
the provision of direct care to older adults and the results 30848  
indicate that the individual has been convicted of or pleaded 30849  
guilty to any of the offenses listed or described in division 30850  
(C)(1) or (2) of this section, the agency shall terminate the 30851  
individual's employment unless the agency chooses to employ the 30852  
individual pursuant to division (F) of this section. Termination 30853  
of employment under this division shall be considered just cause 30854  
for discharge for purposes of division (D)(2) of section 4141.29 30855

of the Revised Code if the individual makes any attempt to deceive 30856  
the agency about the individual's criminal record. 30857

(D)(1) Each home health agency shall pay to the bureau of 30858  
criminal identification and investigation the fee prescribed 30859  
pursuant to division (C)(3) of section 109.572 of the Revised Code 30860  
for each criminal records check conducted in accordance with that 30861  
section upon the request pursuant to division (B)(1) of this 30862  
section of the chief administrator of the home health agency. 30863

(2) A home health agency may charge an applicant a fee for 30864  
the costs it incurs in obtaining a criminal records check under 30865  
this section, unless the medical assistance program established 30866  
under Chapter 5111. of the Revised Code reimburses the agency for 30867  
the costs. A fee charged under division (D)(2) of this section 30868  
shall not exceed the amount of fees the agency pays under division 30869  
(D)(1) of this section. If a fee is charged under division (D)(2) 30870  
of this section, the agency shall notify the applicant at the time 30871  
of the applicant's initial application for employment of the 30872  
amount of the fee and that, unless the fee is paid, the agency 30873  
will not consider the applicant for employment. 30874

(E) The report of any criminal records check conducted by the 30875  
bureau of criminal identification and investigation in accordance 30876  
with section 109.572 of the Revised Code and pursuant to a request 30877  
made under division (B)(1) of this section is not a public record 30878  
for the purposes of section 149.43 of the Revised Code and shall 30879  
not be made available to any person other than the following: 30880

(1) The individual who is the subject of the criminal records 30881  
check or the individual's representative; 30882

(2) The home health agency requesting the criminal records 30883  
check or its representative; 30884

(3) The administrator of any other facility, agency, or 30885  
program that provides direct care to older adults that is owned or 30886

operated by the same entity that owns or operates the home health agency; 30887  
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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; 30889  
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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. 30893  
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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. 30896  
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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. 30906  
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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 30915  
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in a position that involves providing direct care to older adults, 30918  
all of the following shall apply: 30919

(1) If the agency employed the individual in good faith and 30920  
reasonable reliance on the report of a criminal records check 30921  
requested under this section, the agency shall not be found 30922  
negligent solely because of its reliance on the report, even if 30923  
the information in the report is determined later to have been 30924  
incomplete or inaccurate; 30925

(2) If the agency employed the individual in good faith on a 30926  
conditional basis pursuant to division (C)(3)(b) of this section, 30927  
the agency shall not be found negligent solely because it employed 30928  
the individual prior to receiving the report of a criminal records 30929  
check requested under this section; 30930

(3) If the agency in good faith employed the individual 30931  
according to the personal character standards established in rules 30932  
adopted under division (F) of this section, the agency shall not 30933  
be found negligent solely because the individual prior to being 30934  
employed had been convicted of or pleaded guilty to an offense 30935  
listed or described in division (C)(1) or (2) of this section. 30936

(I)(1) The chief administrator of a home health agency is not 30937  
required to request that the superintendent of the bureau of 30938  
criminal identification and investigation conduct a criminal 30939  
records check of an applicant for a position that involves the 30940  
provision of direct care to older adults if the applicant has been 30941  
referred to the agency by an employment service that supplies 30942  
full-time, part-time, or temporary staff for positions involving 30943  
the direct care of older adults and both of the following apply: 30944

(a) The chief administrator receives from the employment 30945  
service or the applicant a report of the results of a criminal 30946  
records check regarding the applicant that has been conducted by 30947  
the superintendent within the one-year period immediately 30948

preceding the applicant's referral; 30949

(b) The report of the criminal records check demonstrates 30950  
that the person has not been convicted of or pleaded guilty to an 30951  
offense listed or described in division (C)(2) of this section, or 30952  
the report demonstrates that the person has been convicted of or 30953  
pleaded guilty to one or more of those offenses, but the home 30954  
health agency chooses to employ the individual pursuant to 30955  
division (F) of this section. 30956

(2) The chief administrator of a home health agency is not 30957  
required to request that the superintendent of the bureau of 30958  
criminal identification and investigation conduct a criminal 30959  
records check of an applicant for a position that involves 30960  
providing direct care to older adults and may employ the applicant 30961  
conditionally in a position of that nature as described in this 30962  
division, if the applicant has been referred to the agency by an 30963  
employment service that supplies full-time, part-time, or 30964  
temporary staff for positions involving the direct care of older 30965  
adults and if the chief administrator receives from the employment 30966  
service or the applicant a letter from the employment service that 30967  
is on the letterhead of the employment service, dated, and signed 30968  
by a supervisor or another designated official of the employment 30969  
service and that states that the employment service has requested 30970  
the superintendent to conduct a criminal records check regarding 30971  
the applicant, that the requested criminal records check will 30972  
include a determination of whether the applicant has been 30973  
convicted of or pleaded guilty to any offense listed or described 30974  
in division (C)(2) of this section, that, as of the date set forth 30975  
on the letter, the employment service had not received the results 30976  
of the criminal records check, and that, when the employment 30977  
service receives the results of the criminal records check, it 30978  
promptly will send a copy of the results to the home health 30979  
agency. If a home health agency employs an applicant conditionally 30980

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 31013  
in this division, if the applicant has been referred to the agency 31014  
by an employment service that supplies full-time, part-time, or 31015  
temporary staff for positions involving both responsibility for 31016  
the care, custody, and control of a child and the direct care of 31017  
older adults and if the chief administrator receives from the 31018  
employment service or the applicant a letter from the employment 31019  
service that is on the letterhead of the employment service, 31020  
dated, and signed by a supervisor or another designated official 31021  
of the employment service and that states that the employment 31022  
service has requested the superintendent to conduct a criminal 31023  
records check regarding the applicant, that the requested criminal 31024  
records check will include a determination of whether the 31025  
applicant has been convicted of or pleaded guilty to any offense 31026  
listed or described in division (C)(1) or (2) of this section, 31027  
that, as of the date set forth on the letter, the employment 31028  
service had not received the results of the criminal records 31029  
check, and that, when the employment service receives the results 31030  
of the criminal records check, it promptly will send a copy of the 31031  
results to the home health agency. If a home health agency employs 31032  
an applicant conditionally in accordance with this division, the 31033  
employment service, upon its receipt of the results of the 31034  
criminal records check, promptly shall send a copy of the results 31035  
to the home health agency, and division (C)(3)(b) of this section 31036  
applies regarding the conditional employment. 31037

**Sec. 3701.99.** (A) Whoever violates section 3701.25 of the 31038  
Revised Code is guilty of a minor misdemeanor on a first offense; 31039  
on each subsequent offense, the person is guilty of a misdemeanor 31040  
of the second degree. 31041

(B) Whoever violates division (I) of section 3701.262, 31042  
division (D) of section 3701.263, or section 3701.352 or sections 31043  
3701.46 to 3701.55 of the Revised Code is guilty of a minor 31044

misdemeanor on a first offense; on each subsequent offense, the 31045  
person is guilty of a misdemeanor of the fourth degree. 31046

(C) Whoever violates section 3701.82 of the Revised Code is 31047  
guilty of a misdemeanor of the first degree. 31048

(D) Whoever violates section 3701.81 of the Revised Code is 31049  
guilty of a misdemeanor of the second degree. 31050

~~(E) Whoever violates division (G) of section 3701.88 of the 31051  
Revised Code shall be fined not more than one hundred dollars. 31052  
Each day the violation continues is a separate offense. 31053~~

**Sec. 3702.31.** (A) The quality monitoring and inspection fund 31054  
is hereby created in the state treasury. The director of health 31055  
shall use the fund to administer and enforce this section and 31056  
sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised 31057  
Code and rules adopted pursuant to those sections. The director 31058  
shall deposit in the fund any moneys collected pursuant to this 31059  
section or section 3702.32 of the Revised Code. All investment 31060  
earnings of the fund shall be credited to the fund. 31061

(B) The director of health shall adopt rules pursuant to 31062  
Chapter 119. of the Revised Code establishing fees for both of the 31063  
following: 31064

(1) Initial and renewal license applications submitted under 31065  
section 3702.30 of the Revised Code. The fees established under 31066  
division (B)(1) of this section shall not exceed the actual and 31067  
necessary costs of performing the activities described in division 31068  
(A) of this section. 31069

(2) Inspections conducted under section 3702.15 or 3702.30 of 31070  
the Revised Code. The fees established under division (B)(2) of 31071  
this section shall not exceed the actual and necessary costs 31072  
incurred during an inspection, including any indirect costs 31073  
incurred by the department for staff, salary, or other 31074

administrative costs. The director of health shall provide to each 31075  
health care facility or provider inspected pursuant to section 31076  
3702.15 or 3702.30 of the Revised Code a written statement of the 31077  
fee. The statement shall itemize and total the costs incurred. 31078  
Within fifteen days after receiving a statement from the director, 31079  
the facility or provider shall forward the total amount of the fee 31080  
to the director. 31081

(3) The fees described in divisions (B)(1) and (2) of this 31082  
section shall meet both of the following requirements: 31083

(a) For each service described in section 3702.11 of the 31084  
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 31085  
hundred fifty dollars annually, except that the total fees charged 31086  
to a health care provider under this section shall not exceed five 31087  
thousand dollars annually. 31088

(b) The fee shall exclude any costs reimbursable by the 31089  
United States health care financing administration as part of the 31090  
certification process for the medicare program established under 31091  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 31092  
U.S.C.A. 301, as amended, and the medicaid program established 31093  
under Title XIX of that act. 31094

(4) The director shall not establish a fee for any service 31095  
for which a licensure or inspection fee is paid by the health care 31096  
provider to a state agency for the same or similar licensure or 31097  
inspection. 31098

**Sec. 3702.529.** (A) A person granted a nonreviewability ruling 31099  
prior to April 20, 1995, may implement the activity for which the 31100  
ruling was issued in accordance with the information provided to 31101  
the director of health in the request for the ruling, 31102  
notwithstanding the amendments to sections 3702.51 to 3702.62 of 31103  
the Revised Code by Amended Substitute Senate Bill No. 50 and 31104  
Amended Substitute Senate Bill No. 156, both of the 121st general 31105

assembly. A person granted a certificate of need or 31106  
nonreviewability ruling prior to that date is not required to file 31107  
a notice of intent under section 3702.581 of the Revised Code, as 31108  
that section existed prior to the effective date of this 31109  
amendment, with respect to the activity for which the certificate 31110  
or ruling was issued. 31111

(B) A certificate of need is not required for any person to 31112  
add a cardiac catheterization laboratory to an existing cardiac 31113  
catheterization service, as described in division (R)(11) of 31114  
section 3702.51 of the Revised Code, if the person, prior to ~~the~~ 31115  
~~effective date of this section June 30, 1995~~, filed a notice of 31116  
intent under section 3702.581 of the Revised Code, as that section 31117  
existed prior to the effective date of this amendment, to do so. 31118  
However, the exemption provided by this division expires six 31119  
months after ~~the effective date of this section June 30, 1995~~, 31120  
unless the person has taken action to implement the addition by 31121  
taking the applicable action listed in divisions (A)(1) to (6) of 31122  
section 3702.525 of the Revised Code and provides the director 31123  
with written documentation that action has been taken. 31124

(C) The director shall issue a reviewability ruling, in 31125  
accordance with the version of section 3702.528 of the Revised 31126  
Code in effect immediately prior to ~~the effective date of this~~ 31127  
~~section June 30, 1995~~, to any hospital that requested one prior to 31128  
that date concerning a relocation of any of the following to 31129  
another hospital in the same or a different metropolitan 31130  
statistical area: 31131

(1) Obstetric or newborn care beds registered under section 31132  
3701.07 of the Revised Code as level II or III beds; 31133

(2) Pediatric intensive care beds; 31134

(3) A health service specified in division (R)(1) of section 31135  
3702.51 of the Revised Code. 31136

A certificate of need is not required to conduct such a 31137  
relocation for which the director has issued a nonreviewability 31138  
ruling. However, the exemption provided by this division expires 31139  
six months after ~~the effective date of this section~~ June 30, 1995, 31140  
unless the hospital has taken action to implement the relocation 31141  
by taking the applicable action listed in divisions (A)(1) to (6) 31142  
of section 3702.525 of the Revised Code and provides the director 31143  
with written documentation that action has been taken. 31144

The director shall not issue a reviewability ruling requested 31145  
under the previous version of section 3702.528 of the Revised Code 31146  
concerning a relocation of long-term care beds. 31147

(D) A certificate of need is not required to relocate 31148  
existing health services from one hospital to another, as 31149  
described in division (T) of the version of section 3702.51 of the 31150  
Revised Code in effect immediately prior to ~~the effective date of~~ 31151  
~~this section~~ June 30, 1995, if the hospitals filed the notice of 31152  
intent required by division (T)(2) of that version prior to ~~the~~ 31153  
~~effective date of this amendment~~ June 30, 1995, and comply with 31154  
divisions (T)(1) and (T)(3) to (6) of that version. 31155

**Sec. 3702.53.** (A) No person shall carry out any reviewable 31156  
activity unless a certificate of need for such activity has been 31157  
granted under sections 3702.51 to 3702.62 of the Revised Code or 31158  
the person is exempted by division (T) of section 3702.51 or 31159  
section 3702.527, 3702.528, 3702.529, 3702.5210, or 3702.62 of the 31160  
Revised Code from the requirement that a certificate of need be 31161  
obtained. No person shall carry out any reviewable activity if a 31162  
certificate of need authorizing that activity has been withdrawn 31163  
by the director of health under section 3702.52 or 3702.526 of the 31164  
Revised Code. No person shall carry out a reviewable activity if 31165  
the certificate of need authorizing that activity is void pursuant 31166  
to section 3702.524 of the Revised Code or has expired pursuant to 31167

section 3702.525 of the Revised Code.	31168
(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.	31169 31170 31171
(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of need.	31172 31173 31174 31175
<del>(D) No person shall fail to file a notice required by section 3702.581 of the Revised Code.</del>	31176 31177
<b>Sec. 3702.532.</b> When the director of health determines that a person has violated section 3702.53 of the Revised Code, the director shall send a notice to the person by certified mail, return receipt requested, specifying the activity constituting the violation and the penalties imposed under section 3702.54, 3702.541, <u>or</u> 3702.542, <del>or 3702.543</del> of the Revised Code.	31178 31179 31180 31181 31182 31183
<b>Sec. 3702.54.</b> Except as provided in sections 3702.541, <u>and</u> 3702.542, <del>and former section</del> 3702.543 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.	31184 31185 31186 31187 31188
(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:	31189 31190
(1) Three thousand dollars;	31191
(2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;	31192 31193 31194
(3) Two per cent of the total capital cost associated with implementation of the activity.	31195 31196

In no event, however, shall the penalty exceed two hundred 31197  
fifty thousand dollars. 31198

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 31199  
the director shall refuse to accept for review any application for 31200  
a certificate of need filed by or on behalf of the person, or any 31201  
successor to the person or entity related to the person, for a 31202  
period of not less than one year and not more than three years 31203  
after ~~he~~ the director mails the notice of ~~his~~ the director's 31204  
determination under section 3702.532 of the Revised Code or, if 31205  
~~his~~ the determination is appealed under section 3702.60 of the 31206  
Revised Code, the issuance of the order upholding ~~his~~ the 31207  
determination that is not subject to further appeal. In 31208  
determining the length of time during which ~~he will not accept~~ 31209  
applications will not be accepted, the director may consider any 31210  
of the following: 31211

(a) The nature and magnitude of the violation; 31212

(b) The ability of the person to have averted the violation; 31213

(c) Whether the person disclosed the violation to the 31214  
director before the director commenced his investigation; 31215

(d) The person's history of compliance with sections 3702.51 31216  
to 3702.62 and the rules adopted under section 3702.57 of the 31217  
Revised Code; 31218

(e) Any community hardship that may result from refusing to 31219  
accept future applications from the person. 31220

(2) Notwithstanding the one-year minimum imposed by division 31221  
(B)(1) of this section, the director may establish a period of 31222  
less than one year during which ~~he~~ the director will refuse to 31223  
accept certificate of need applications if, after reviewing all 31224  
information available to ~~him~~ the director, ~~he~~ the director 31225  
determines and expressly indicates in the notice mailed under 31226

section 3702.532 of the Revised Code that refusing to accept 31227  
applications for a longer period would result in hardship to the 31228  
community in which the person provides health services. The 31229  
director's finding of community hardship shall not affect the 31230  
granting or denial of any future certificate of need application 31231  
filed by the person. 31232

**Sec. 3702.544.** Each person required by section 3702.54, 31233  
3702.541, or 3702.542, or former section 3702.543 of the Revised 31234  
Code to pay a civil penalty shall do so not later than sixty days 31235  
after receiving the notice mailed under section 3702.532 of the 31236  
Revised Code or, if the person appeals under section 3702.60 of 31237  
the Revised Code the director of health's determination that a 31238  
violation has occurred, not later than sixty days after the 31239  
issuance of an order upholding ~~his~~ the director's determination 31240  
that is not subject to further appeal. The civil penalties shall 31241  
be paid to the director. The director shall deposit them into the 31242  
certificate of need fund created by section 3702.52 of the Revised 31243  
Code. 31244

**Sec. 3702.55.** Except as provided in section 3702.542 of the 31245  
Revised Code, a person that the director of health determines has 31246  
violated section 3702.53 of the Revised Code shall cease 31247  
conducting the activity that constitutes the violation or 31248  
utilizing the equipment or facility resulting from the violation 31249  
not later than thirty days after the person receives the notice 31250  
mailed under section 3702.532 of the Revised Code or, if the 31251  
person appeals the director's determination under section 3702.60 31252  
of the Revised Code, thirty days after the person receives an 31253  
order upholding the director's determination that is not subject 31254  
to further appeal. A person that applies for a certificate of need 31255  
as described in section 3702.542 of the Revised Code shall cease 31256  
conducting the activity or using the equipment or facility in 31257

accordance with the timetable established by the director of 31258  
health under that section. 31259

If any person determined to have violated section 3702.53 of 31260  
the Revised Code fails to cease conducting an activity or using 31261  
equipment or a facility as required by this section or a timetable 31262  
established under section 3702.542 of the Revised Code, or if the 31263  
person continues to seek payment or reimbursement for services 31264  
rendered or costs incurred in conducting the activity as 31265  
prohibited by section 3702.56 of the Revised Code, in addition to 31266  
the penalties imposed under section 3702.54, 3702.541, or 31267  
3702.542~~7~~ or former section 3702.543 of the Revised Code: 31268

(A) The director of health may refuse to include any beds 31269  
involved in the activity in the bed capacity of a hospital for 31270  
purposes of registration under section 3701.07 of the Revised 31271  
Code; 31272

(B) The director of health may refuse to license, or may 31273  
revoke a license or reduce bed capacity previously granted to, a 31274  
maternity boardinghouse or lying-in hospital under section 3711.02 31275  
of the Revised Code; a hospice care program under section 3712.04 31276  
of the Revised Code; a nursing home, rest home, or home for the 31277  
aging under section 3721.02 of the Revised Code; or any beds 31278  
within any of those facilities that are involved in the activity; 31279

(C) A political subdivision certified under section 3721.09 31280  
of the Revised Code may refuse to license, or may revoke a license 31281  
or reduce bed capacity previously granted to, a nursing home, rest 31282  
home, or home for the aging, or any beds within any of those 31283  
facilities that are involved in the activity; 31284

(D) The director of mental health may refuse to license under 31285  
section 5119.20 of the Revised Code, or may revoke a license or 31286  
reduce bed capacity previously granted to, a hospital receiving 31287  
mentally ill persons or beds within such a hospital that are 31288

involved in the activity; 31289

(E) The department of job and family services may refuse to 31290  
enter into a provider agreement that includes a facility, beds, or 31291  
services that result from the activity. 31292

**Sec. 3702.60.** (A) Any affected person may appeal a 31293  
reviewability ruling issued on or after April 20, 1995, to the 31294  
director of health in accordance with Chapter 119. of the Revised 31295  
Code, and the director shall provide an adjudication hearing in 31296  
accordance with that chapter. An affected person may appeal the 31297  
director's ruling in the adjudication hearing to the tenth 31298  
district court of appeals. 31299

(B) The certificate of need applicant or another affected 31300  
person may appeal to the director in accordance with Chapter 119. 31301  
of the Revised Code a decision issued by the director on or after 31302  
April 20, 1995, to grant or deny a certificate of need application 31303  
for which an adjudication hearing was not conducted under section 31304  
3702.52 of the Revised Code, and the director shall provide an 31305  
adjudication hearing in accordance with that chapter. The 31306  
certificate of need applicant or an affected person that was a 31307  
party to and participated in an adjudication hearing conducted 31308  
under this division or section 3702.52 of the Revised Code may 31309  
appeal to the tenth district court of appeals the decision issued 31310  
by the director following the adjudication hearing. No person may 31311  
appeal to the director or a court the director's granting of a 31312  
certificate of need prior to ~~the effective date of this amendment~~ 31313  
June 30, 1995, under the version of section 3702.52 of the Revised 31314  
Code in effect immediately prior to that date due to failure to 31315  
submit timely written objections, no person may appeal to the 31316  
director or a court the director's granting of a certificate of 31317  
need under division (C)(1) or (2) of section 3702.52 of the 31318  
Revised Code. 31319

(C) The certificate of need holder may appeal to the director 31320  
in accordance with Chapter 119. of the Revised Code a decision 31321  
issued by the director under section 3702.52 or 3702.526 of the 31322  
Revised Code on or after April 20, 1995, to withdraw a certificate 31323  
of need, and the director shall provide an adjudication hearing in 31324  
accordance with that chapter. The person may appeal the director's 31325  
ruling in the adjudication hearing to the tenth district court of 31326  
appeals. 31327

(D) Any person determined by the director to have violated 31328  
section 3702.53 of the Revised Code may appeal that determination, 31329  
or the penalties imposed under section 3702.54, 3702.541, or 31330  
3702.542~~7~~, or former section 3702.543 of the Revised Code, to the 31331  
director in accordance with Chapter 119. of the Revised Code, and 31332  
the director shall provide an adjudication hearing in accordance 31333  
with that chapter. The person may appeal the director's ruling in 31334  
the adjudication hearing to the tenth district court of appeals. 31335

(E) Each person appealing under this section to the director 31336  
shall file with the director, not later than thirty days after the 31337  
decision, ruling, or determination of the director was mailed, a 31338  
notice of appeal designating the decision, ruling, or 31339  
determination appealed from. 31340

(F) Each person appealing under this section to the tenth 31341  
district court of appeals shall file with the court, not later 31342  
than thirty days after the date the director's adjudication order 31343  
was mailed, a notice of appeal designating the order appealed 31344  
from. The appellant also shall file notice with the director not 31345  
later than thirty days after the date the order was mailed. 31346

(1) Not later than thirty days after receipt of the notice of 31347  
appeal, the director shall prepare and certify to the court the 31348  
complete record of the proceedings out of which the appeal arises. 31349  
The expense of preparing and transcribing the record shall be 31350

taxed as part of the costs of the appeal. In the event that the 31351  
record or a part thereof is not certified within the time 31352  
prescribed by this division, the appellant may apply to the court 31353  
for an order that the record be certified. 31354

(2) In hearing the appeal, the court shall consider only the 31355  
evidence contained in the record certified to it by the director. 31356  
The court may remand the matter to the director for the admission 31357  
of additional evidence on a finding that the additional evidence 31358  
is material, newly discovered, and could not with reasonable 31359  
diligence have been ascertained before the hearing before the 31360  
director. Except as otherwise provided by statute, the court shall 31361  
give the hearing on the appeal preference over all other civil 31362  
matters, irrespective of the position of the proceedings on the 31363  
calendar of the court. 31364

(3) The court shall affirm the director's order if it finds, 31365  
upon consideration of the entire record and any additional 31366  
evidence admitted under division (F)(2) of this section, that the 31367  
order is supported by reliable, probative, and substantial 31368  
evidence and is in accordance with law. In the absence of such a 31369  
finding, it shall reverse, vacate, or modify the order. 31370

(4) If the court determines that the director committed 31371  
material procedural error, the court shall remand the matter to 31372  
the director for further consideration or action. 31373

(G) The court may award reasonable attorney's fees against 31374  
the appellant if it determines that the appeal was frivolous. 31375  
Sections 119.092, 119.093, and 2335.39 of the Revised Code do not 31376  
apply to adjudication hearings under this section or section 31377  
3702.52 of the Revised Code and judicial appeals under this 31378  
section. 31379

(H) No person may intervene in an appeal brought under this 31380  
section. 31381

**Sec. 3702.61.** In addition to the sanctions imposed under 31382  
sections 3702.54, 3702.541, 3702.542, ~~3702.543~~, and 3702.55 and 31383  
former section 3702.543 of the Revised Code, if any person 31384  
violates section 3702.53 of the Revised Code, the attorney general 31385  
may commence necessary legal proceedings in the court of common 31386  
pleas of Franklin county to enjoin the person from such violation 31387  
until the requirements of sections 3702.51 to 3702.62 of the 31388  
Revised Code have been satisfied. At the request of the director 31389  
of health, the attorney general shall commence any necessary 31390  
proceedings. The court has jurisdiction to grant and, on a showing 31391  
of a violation, shall grant appropriate injunctive relief. 31392

**Sec. 3702.63.** As specified in former Section 11 of Am. Sub. 31393  
S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 31394  
405 of the 124th general assembly, all of the following apply: 31395

(A) The removal of former divisions (E) and (F) of section 31396  
3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 31397  
50 of the 121st general assembly does not release the holders of 31398  
certificates of need issued under those divisions from complying 31399  
with any conditions on which the granting of the certificates of 31400  
need was based, including the requirement of former division 31401  
(E)(6) of that section that the holders not enter into provider 31402  
agreements under Chapter 5111. of the Revised Code and Title XIX 31403  
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 31404  
as amended, for at least ten years following initial licensure of 31405  
the long-term care facilities for which the certificates were 31406  
granted. 31407

(B) The repeal of section 3702.55 of the Revised Code by 31408  
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 31409  
not release the holders of certificates of need issued under that 31410  
section from complying with any conditions on which the granting 31411

of the certificates of need was based, other than the requirement 31412  
of division (A)(6) of that section that the holders not seek 31413  
certification under Title XVIII of the "Social Security Act" for 31414  
beds recategorized under the certificates. That repeal also does 31415  
not eliminate the requirement that the director of health revoke 31416  
the licensure of the beds under Chapter 3721. of the Revised Code 31417  
if a person to which their ownership is transferred fails, as 31418  
required by division (A)(6) of the repealed section, to file 31419  
within ten days after the transfer a sworn statement not to seek 31420  
certification under Title XIX of the "Social Security Act" for 31421  
beds recategorized under the certificates of need. 31422

(C) The repeal of section 3702.56 of the Revised Code by 31423  
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 31424  
not release the holders of certificates of need issued under that 31425  
section from complying with any conditions on which the granting 31426  
of the certificates of need was based. 31427

**Sec. 3702.68.** (A) Notwithstanding sections 3702.51 to 3702.62 31428  
of the Revised Code, this section applies to the review of 31429  
certificate of need applications during the period beginning July 31430  
1, 1993, and ending June 30, ~~2003~~ 2005. 31431

(B)(1) Except as provided in division (B)(2) of this section, 31432  
the director of health shall neither grant nor deny any 31433  
application for a certificate of need submitted prior to July 1, 31434  
1993, if the application was for any of the following and the 31435  
director had not issued a written decision concerning the 31436  
application prior to that date: 31437

(a) Approval of beds in a new health care facility or an 31438  
increase of beds in an existing health care facility, if the beds 31439  
are proposed to be licensed as nursing home beds under Chapter 31440  
3721. of the Revised Code; 31441

(b) Approval of beds in a new county home or new county 31442

nursing home as defined in section 5155.31 of the Revised Code, or 31443  
an increase of beds in an existing county home or existing county 31444  
nursing home, if the beds are proposed to be certified as skilled 31445  
nursing facility beds under Title XVIII or nursing facility beds 31446  
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 31447  
42 U.S.C.A. 301, as amended; 31448

(c) Recategorization of hospital beds as described in section 31449  
3702.522 of the Revised Code, an increase of hospital beds 31450  
registered pursuant to section 3701.07 of the Revised Code as 31451  
long-term care beds or skilled nursing facility beds, or a 31452  
recategorization of hospital beds that would result in an increase 31453  
of beds registered pursuant to that section as long-term care beds 31454  
or skilled nursing facility beds. 31455

On July 1, 1993, the director shall return each such 31456  
application to the applicant and, notwithstanding section 3702.52 31457  
of the Revised Code regarding the uses of the certificate of need 31458  
fund, shall refund to the applicant the application fee paid under 31459  
that section. Applications returned under division (B)(1) of this 31460  
section may be resubmitted in accordance with section 3702.52 of 31461  
the Revised Code no sooner than July 1, ~~2003~~ 2005. 31462

(2) The director shall continue to review and shall issue a 31463  
decision regarding any application submitted prior to July 1, 31464  
1993, to increase beds for either of the purposes described in 31465  
division (B)(1)(a) or (b) of this section if the proposed increase 31466  
in beds is attributable solely to a replacement or relocation of 31467  
existing beds within the same county. The director shall authorize 31468  
under such an application no additional beds beyond those being 31469  
replaced or relocated. 31470

(C)(1) Except as provided in division (C)(2) of this section, 31471  
the director, during the period beginning July 1, 1993, and ending 31472  
June 30, ~~2003~~ 2005, shall not accept for review under section 31473  
3702.52 of the Revised Code any application for a certificate of 31474

need for any of the purposes described in divisions (B)(1)(a) to 31475  
(c) of this section. 31476

(2) The director shall accept for review any application for 31477  
either of the purposes described in division (B)(1)(a) or (b) of 31478  
this section if the proposed increase in beds is attributable 31479  
solely to a replacement or relocation of existing beds within the 31480  
same county. The director shall authorize under such an 31481  
application no additional beds beyond those being replaced or 31482  
relocated. The director also shall accept for review any 31483  
application that seeks certificate of need approval for existing 31484  
beds located in an infirmary that is operated exclusively by a 31485  
religious order, provides care exclusively to members of religious 31486  
orders who take vows of celibacy and live by virtue of their vows 31487  
within the orders as if related, and was providing care 31488  
exclusively to members of such a religious order on January 1, 31489  
1994. 31490

(D) The director shall issue a decision regarding any case 31491  
remanded by a court as the result of a decision issued by the 31492  
director prior to July 1, 1993, to grant, deny, or withdraw a 31493  
certificate of need for any of the purposes described in divisions 31494  
(B)(1)(a) to (c) of this section. 31495

(E) The director shall not project the need for beds listed 31496  
in division (B)(1) of this section for the period beginning July 31497  
1, 1993, and ending June 30, ~~2003~~ 2005. 31498

This section is an interim section effective until July 1, 31499  
~~2003~~ 2005. 31500

**Sec. 3702.74.** (A) A primary care physician who has signed a 31501  
letter of intent under section 3702.73 of the Revised Code, the 31502  
director of health, and the Ohio board of regents may enter into a 31503  
contract for the physician's participation in the physician loan 31504  
repayment program. A lending institution may also be a party to 31505

the contract. 31506

(B) The contract shall include all of the following 31507  
obligations: 31508

(1) The primary care physician agrees to provide primary care 31509  
services in the health resource shortage area identified in the 31510  
letter of intent for at least two years or one year per twenty 31511  
thousand dollars of repayment agreed to under division (B)(3) of 31512  
this section, whichever is greater; 31513

(2) When providing primary care services in the health 31514  
resource shortage area, the primary care physician agrees to do 31515  
all of the following: 31516

(a) Provide primary care services for a minimum of forty 31517  
hours per week; 31518

(b) Provide primary care services without regard to a 31519  
patient's ability to pay; 31520

(c) Meet the conditions prescribed by the "Social Security 31521  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 31522  
department of job and family services for participation in the 31523  
medical assistance program established under Chapter 5111. of the 31524  
Revised Code and enter into a contract with the department to 31525  
provide primary care services to recipients of the medical 31526  
assistance program; 31527

(d) Meet the conditions established by the department of job 31528  
and family services for participation in the disability ~~assistance~~ 31529  
medical assistance program established under Chapter 5115. of the 31530  
Revised Code and enter into a contract with the department to 31531  
provide primary care services to recipients of disability medical 31532  
assistance. 31533

(3) The Ohio board of regents agrees, as provided in section 31534  
3702.75 of the Revised Code, to repay, so long as the primary care 31535

physician performs the service obligation agreed to under division 31536  
(B)(1) of this section, all or part of the principal and interest 31537  
of a government or other educational loan taken by the primary 31538  
care physician for expenses described in section 3702.75 of the 31539  
Revised Code; 31540

(4) The primary care physician agrees to pay the board the 31541  
following as damages if the physician fails to complete the 31542  
service obligation agreed to under division (B)(1) of this 31543  
section: 31544

(a) If the failure occurs during the first two years of the 31545  
service obligation, three times the total amount the board has 31546  
agreed to repay under division (B)(3) of this section; 31547

(b) If the failure occurs after the first two years of the 31548  
service obligation, three times the amount the board is still 31549  
obligated to repay under division (B)(3) of this section. 31550

(C) The contract may include any other terms agreed upon by 31551  
the parties, including an assignment to the Ohio board of regents 31552  
of the physician's duty to pay the principal and interest of a 31553  
government or other educational loan taken by the physician for 31554  
expenses described in section 3702.75 of the Revised Code. If the 31555  
board assumes the physician's duty to pay a loan, the contract 31556  
shall set forth the total amount of principal and interest to be 31557  
paid, an amortization schedule, and the amount of each payment to 31558  
be made under the schedule. 31559

**Sec. 3705.01.** As used in this chapter: 31560

(A) "Live birth" means the complete expulsion or extraction 31561  
from its mother of a product of human conception that after such 31562  
expulsion or extraction breathes or shows any other evidence of 31563  
life such as beating of the heart, pulsation of the umbilical 31564  
cord, or definite movement of voluntary muscles, whether or not 31565

the umbilical cord has been cut or the placenta is attached. 31566

(B)(1) "Fetal death" means death prior to the complete 31567  
expulsion or extraction from its mother of a product of human 31568  
conception of at least twenty weeks of gestation, which after such 31569  
expulsion or extraction does not breathe or show any other 31570  
evidence of life such as beating of the heart, pulsation of the 31571  
umbilical cord, or definite movement of voluntary muscles. 31572

(2) "Stillborn" means that an infant suffered a fetal death. 31573

(C) "Dead body" means a human body or part of a human body 31574  
from the condition of which it reasonably may be concluded that 31575  
death recently occurred. 31576

(D) "Physician" means a person licensed pursuant to Chapter 31577  
4731. of the Revised Code to practice medicine or surgery or 31578  
osteopathic medicine and surgery. 31579

(E) "Attending physician" means the physician in charge of 31580  
the patient's care for the illness or condition that resulted in 31581  
death. 31582

(F) "Institution" means any establishment, public or private, 31583  
that provides medical, surgical, or diagnostic care or treatment, 31584  
or domiciliary care, to two or more unrelated individuals, or to 31585  
persons committed by law. 31586

(G) "Funeral director" has the meaning given in section 31587  
4717.01 of the Revised Code. 31588

(H) "State registrar" means the head of the office of vital 31589  
statistics in the department of health. 31590

(I) "Medical certification" means completion of the medical 31591  
certification portion of the certificate of death or fetal death 31592  
as to the cause of death or fetal death. 31593

(J) "Final disposition" means the interment, cremation, 31594  
removal from the state, donation, or other authorized disposition 31595

of a dead body or a fetal death.	31596
(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.	31597 31598
(L) "Cremation" means the reduction to ashes of a dead body.	31599
(M) "Donation" means gift of a dead body to a research institution or medical school.	31600 31601
(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.	31602 31603 31604 31605
(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.	31606 31607 31608 31609
(P) "File" means the presentation of vital records for registration by the office of vital statistics.	31610 31611
(Q) "Registration" means the acceptance by the office of vital statistics and the incorporation of vital records into its official records.	31612 31613 31614
(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.	31615 31616 31617 31618 31619 31620
(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.	31621 31622 31623
<b>Sec. 3705.23.</b> (A)(1) Except as otherwise provided in this	31624

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 31657  
good cause shown, orders disclosure of the information or the 31658  
state registrar specifically authorizes release of the information 31659  
for statistical or research purposes under conditions the state 31660  
registrar, subject to the approval of the director of health, 31661  
shall establish by rule. 31662

(B)(1) Unless the applicant specifically requests a certified 31663  
copy, the director, the state registrar, or a local registrar, on 31664  
receipt of a signed application for a birth record and the fee 31665  
specified in section 3705.24 of the Revised Code, may issue a 31666  
certification of birth, and the certification of birth shall 31667  
contain at least the name, sex, date of birth, registration date, 31668  
and place of birth of the person to whose birth the record attests 31669  
and shall attest that the person's birth has been registered. A 31670  
certification of birth shall be prima-facie evidence of the facts 31671  
stated in it in all courts and places. 31672

(2) The director or the state registrar, on the receipt of a 31673  
signed application for an heirloom certification of birth and the 31674  
fee specified in section 3705.24 of the Revised Code, may issue an 31675  
heirloom certification of birth. The director shall prescribe by 31676  
rule guidelines for the form of an heirloom certification of 31677  
birth, and the guidelines shall require the heirloom certification 31678  
of birth to contain at least the name, sex, date of birth, 31679  
registration date, and place of birth of the person to whose birth 31680  
the record attests and to attest that the person's birth has been 31681  
registered. An heirloom certification of birth shall be 31682  
prima-facie evidence of the facts stated in it in all courts and 31683  
places. 31684

(3) The director or the state registrar, on the receipt of an 31685  
application signed by either parent, shall issue a certificate 31686  
recognizing the delivery of a stillborn infant. The director shall 31687  
prescribe guidelines by rule for the form of the certificate. The 31688

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 31749  
section or copies provided under section 3705.241 of the Revised 31750  
Code. 31751

(B) In addition to the fees prescribed under division (A) of 31752  
this section or section 3709.09 of the Revised Code, the office of 31753  
vital statistics or the board of health of a city or general 31754  
health district shall charge a five-dollar fee for each certified 31755  
copy of a vital record and each certification of birth. This fee 31756  
shall be deposited in the general operations fund created under 31757  
section 3701.83 of the Revised Code and be used solely toward the 31758  
modernization and automation of the system of vital records in 31759  
this state. A board of health shall forward all fees collected 31760  
under this division to the department of health not later than 31761  
thirty days after the end of each calendar quarter. 31762

(C) Except as otherwise provided in division ~~(G)~~(H) of this 31763  
section, and except as provided in section 3705.241 of the Revised 31764  
Code, fees collected by the director of health under sections 31765  
3705.01 to 3705.29 of the Revised Code shall be paid into the 31766  
state treasury to the credit of the general operations fund 31767  
created by section 3701.83 of the Revised Code. ~~Money~~ Except as 31768  
provided in division (B) of this section, money generated by the 31769  
fees shall be used only for administration and enforcement of this 31770  
chapter and the rules adopted under it. Amounts submitted to the 31771  
department of health for copies of vital records or services in 31772  
excess of the fees imposed by this section shall be dealt with as 31773  
follows: 31774

(1) An overpayment of two dollars or less shall be retained 31775  
by the department and deposited in the state treasury to the 31776  
credit of the general operations fund created by section 3701.83 31777  
of the Revised Code. 31778

(2) An overpayment in excess of two dollars shall be returned 31779  
to the person who made the overpayment. 31780

~~(C)~~(D) If a local registrar is a salaried employee of a city 31781  
or a general health district, any fees the local registrar 31782  
receives pursuant to section 3705.23 of the Revised Code shall be 31783  
paid into the general fund of the city or the health fund of the 31784  
general health district. 31785

Each local registrar of vital statistics, or each health 31786  
district where the local registrar is a salaried employee of the 31787  
district, shall be entitled to a fee for each birth, fetal death, 31788  
death, or military service certificate properly and completely 31789  
made out and registered with the local registrar or district and 31790  
correctly copied and forwarded to the office of vital statistics 31791  
in accordance with the population of the primary registration 31792  
district at the last federal census. The fee for each birth, fetal 31793  
death, death, or military service certificate shall be: 31794

(1) In primary registration districts of over two hundred 31795  
fifty thousand, twenty cents; 31796

(2) In primary registration districts of over one hundred 31797  
twenty-five thousand and less than two hundred fifty thousand, 31798  
sixty cents; 31799

(3) In primary registration districts of over fifty thousand 31800  
and less than one hundred twenty-five thousand, eighty cents; 31801

(4) In primary registration districts of less than fifty 31802  
thousand, one dollar. 31803

~~(D)~~(E) The director of health shall annually certify to the 31804  
county treasurers of the several counties the number of birth, 31805  
fetal death, death, and military service certificates registered 31806  
from their respective counties with the names of the local 31807  
registrars and the amounts due each registrar and health district 31808  
at the rates fixed in this section. Such amounts shall be paid by 31809  
the treasurer of the county in which the registration districts 31810  
are located. No fees shall be charged or collected by registrars 31811

except as provided by this chapter and section 3109.14 of the Revised Code. 31812  
31813

~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents 31814  
for each certified abstract of marriage prepared and forwarded by 31815  
the probate judge to the department of health pursuant to section 31816  
3705.21 of the Revised Code. The fee shall be in addition to the 31817  
fee paid for a marriage license and shall be paid by the 31818  
applicants for the license. 31819

~~(F)~~(G) The clerk of a court of common pleas shall be paid a 31820  
fee of one dollar for each certificate of divorce, dissolution, 31821  
and annulment of marriage prepared and forwarded by the clerk to 31822  
the department pursuant to section 3705.21 of the Revised Code. 31823  
The fee for the certified abstract of divorce, dissolution, or 31824  
annulment of marriage shall be added to the court costs allowed in 31825  
these cases. 31826

~~(G)~~(H) The fee for an heirloom certification of birth issued 31827  
pursuant to division (B)(2) of section 3705.23 of the Revised Code 31828  
shall be an amount prescribed by rule by the director of health 31829  
plus any fee required by section 3109.14 of the Revised Code. In 31830  
setting the amount of the fee, the director shall establish a 31831  
surcharge in addition to an amount necessary to offset the expense 31832  
of processing heirloom certifications of birth. The fee prescribed 31833  
by the director of health pursuant to this division shall be 31834  
deposited into the state treasury to the credit of the heirloom 31835  
certification of birth fund which is hereby created. Money 31836  
credited to the fund shall be used by the office of vital 31837  
statistics to offset the expense of processing heirloom 31838  
certifications of birth. However, the money collected for the 31839  
surcharge, subject to the approval of the controlling board, shall 31840  
be used for the purposes specified by the family and children 31841  
first council pursuant to section 121.37 of the Revised Code. 31842

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 31874  
chapter, no person shall engage in any asbestos hazard abatement 31875  
activities in this state unless licensed or certified pursuant to 31876  
this chapter. 31877

(B) To apply for licensure as an asbestos abatement 31878  
contractor or certification as an asbestos hazard abatement 31879  
specialist, an asbestos hazard evaluation specialist, an asbestos 31880  
hazard abatement project designer, or an asbestos hazard abatement 31881  
air-monitoring technician, a person shall do all of the following: 31882

(1) Submit a completed application to the department of 31883  
health, on a form provided by the department; 31884

(2) Pay the requisite fee as provided in division (D) of this 31885  
section; 31886

(3) Submit any other information the public health council by 31887  
rule requires. 31888

(C) The application form for a business entity or public 31889  
entity applying for an asbestos hazard abatement contractor's 31890  
license shall include all of the following: 31891

(1) A description of the protective clothing and respirators 31892  
that the public entity will use to comply with rules adopted by 31893  
the public health council and that the business entity will use to 31894  
comply with requirements of the United States occupational safety 31895  
and health administration; 31896

(2) A description of procedures the business entity or public 31897  
entity will use for the selection, utilization, handling, removal, 31898  
and disposal of clothing to prevent contamination or 31899  
recontamination of the environment and to protect the public 31900  
health from the hazards associated with exposure to asbestos; 31901

(3) The name and address of each asbestos disposal site that 31902  
the business entity or public entity might use during the year; 31903

(4) A description of the site decontamination procedures that the business entity or public entity will use;	31904 31905
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	31906 31907
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	31908 31909
(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;	31910 31911 31912 31913
(8) A description of the final clean-up procedures that the business entity or public entity will use;	31914 31915
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	31916 31917
(10) The federal tax identification number of the business entity or the public entity.	31918 31919
(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:	31920 31921 31922 31923 31924
(1) <del>Five</del> <u>Seven</u> hundred <u>fifty</u> dollars for asbestos hazard abatement contractors;	31925 31926
(2) <del>One</del> <u>Two</u> hundred <del>twenty-five</del> dollars for asbestos hazard abatement project designers;	31927 31928
(3) <del>Twenty-five</del> <u>Fifty</u> dollars for asbestos hazard abatement workers;	31929 31930
(4) <del>One</del> <u>Two</u> hundred <del>twenty-five</del> dollars for asbestos hazard abatement specialists;	31931 31932

(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 31963  
this chapter and the following training: 31964

(a) An initial course approved by the department pursuant to 31965  
section 3710.10 of the Revised Code, completed before engaging in 31966  
any asbestos hazard abatement project; and 31967

(b) An annual review course approved by the department 31968  
pursuant to section 3710.10 of the Revised Code. 31969

(B) After obtaining or renewing a license, an asbestos hazard 31970  
abatement contractor shall notify the department, on a form 31971  
approved by the director of health, at least ten days before 31972  
beginning each asbestos hazard abatement project conducted during 31973  
the term of ~~his~~ the contractor's license. 31974

(C) In addition to any other fee imposed under this chapter, 31975  
an asbestos hazard abatement contractor shall pay, at the time of 31976  
providing notice under division (B) of this section, the 31977  
department a fee of ~~twenty-five~~ sixty-five dollars for each 31978  
asbestos hazard abatement project conducted. 31979

**Sec. 3711.021.** For the purposes of this chapter, a maternity 31980  
hospital or lying-in hospital includes a limited maternity unit, 31981  
which is a unit in a hospital that contains no other maternity 31982  
unit, in which care is provided during all or part of the 31983  
maternity cycle and newborns receive care in a private room 31984  
serving all antepartum, labor, delivery, recovery, postpartum, and 31985  
nursery needs. 31986

The director of health may charge a maternity hospital or 31987  
lying-in hospital seeking an initial or renewal license under this 31988  
chapter a fee not exceeding the following: 31989

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars 31990  
for a hospital in which not less than two thousand births occurred 31991  
the previous calendar year; 31992

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 31993  
for a hospital in which not more than one thousand nine hundred 31994  
ninety-nine and not less than one thousand births occurred the 31995  
previous calendar year; 31996

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 31997  
for a hospital in which not more than nine hundred ninety-nine and 31998  
not less than six hundred fifty births occurred the previous 31999  
calendar year; 32000

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 32001  
for a hospital in which not more than six hundred forty-nine and 32002  
not less than four hundred fifty births occurred the previous 32003  
calendar year; 32004

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 32005  
for a hospital in which not more than four hundred forty-nine 32006  
births and not less than one hundred births occurred the previous 32007  
calendar year; 32008

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 32009  
for a hospital in which not more than ninety-nine births occurred 32010  
the previous calendar year. 32011

The director shall deposit all fees collected under this 32012  
section into the general operations fund created under section 32013  
3701.83 of the Revised Code. Money generated by the fees shall be 32014  
used only for administration and enforcement of this chapter and 32015  
rules adopted under it. 32016

**Sec. 3721.02.** (A) The director of health shall license homes 32017  
and establish procedures to be followed in inspecting and 32018  
licensing homes. The director may inspect a home at any time. Each 32019  
home shall be inspected by the director at least once prior to the 32020  
issuance of a license and at least once every fifteen months 32021  
thereafter. The state fire marshal or a township, municipal, or 32022

other legally constituted fire department approved by the marshal 32023  
shall also inspect a home prior to issuance of a license, at least 32024  
once every fifteen months thereafter, and at any other time 32025  
requested by the director. A home does not have to be inspected 32026  
prior to issuance of a license by the director, state fire 32027  
marshal, or a fire department if ownership of the home is assigned 32028  
or transferred to a different person and the home was licensed 32029  
under this chapter immediately prior to the assignment or 32030  
transfer. The director may enter at any time, for the purposes of 32031  
investigation, any institution, residence, facility, or other 32032  
structure that has been reported to the director or that the 32033  
director has reasonable cause to believe is operating as a nursing 32034  
home, residential care facility, or home for the aging without a 32035  
valid license required by section 3721.05 of the Revised Code or, 32036  
in the case of a county home or district home, is operating 32037  
despite the revocation of its residential care facility license. 32038  
The director may delegate the director's authority and duties 32039  
under this chapter to any division, bureau, agency, or official of 32040  
the department of health. 32041

(B) A single facility may be licensed both as a nursing home 32042  
pursuant to this chapter and as an adult care facility pursuant to 32043  
Chapter 3722. of the Revised Code if the director determines that 32044  
the part or unit to be licensed as a nursing home can be 32045  
maintained separate and discrete from the part or unit to be 32046  
licensed as an adult care facility. 32047

(C) In determining the number of residents in a home for the 32048  
purpose of licensing, the director shall consider all the 32049  
individuals for whom the home provides accommodations as one group 32050  
unless one of the following is the case: 32051

(1) The home is a home for the aging, in which case all the 32052  
individuals in the part or unit licensed as a nursing home shall 32053  
be considered as one group, and all the individuals in the part or 32054

unit licensed as a rest home shall be considered as another group. 32055

(2) The home is both a nursing home and an adult care 32056  
facility. In that case, all the individuals in the part or unit 32057  
licensed as a nursing home shall be considered as one group, and 32058  
all the individuals in the part or unit licensed as an adult care 32059  
facility shall be considered as another group. 32060

(3) The home maintains, in addition to a nursing home or 32061  
residential care facility, a separate and discrete part or unit 32062  
that provides accommodations to individuals who do not require or 32063  
receive skilled nursing care and do not receive personal care 32064  
services from the home, in which case the individuals in the 32065  
separate and discrete part or unit shall not be considered in 32066  
determining the number of residents in the home if the separate 32067  
and discrete part or unit is in compliance with the Ohio basic 32068  
building code established by the board of building standards under 32069  
Chapters 3781. and 3791. of the Revised Code and the home permits 32070  
the director, on request, to inspect the separate and discrete 32071  
part or unit and speak with the individuals residing there, if 32072  
they consent, to determine whether the separate and discrete part 32073  
or unit meets the requirements of this division. 32074

(D) The director of health shall charge an application fee 32075  
and an annual renewal licensing and inspection fee of one hundred 32076  
five dollars for each fifty persons or part thereof of a home's 32077  
licensed capacity. All fees collected by the director for the 32078  
issuance or renewal of licenses shall be deposited into the state 32079  
treasury to the credit of the general operations fund created in 32080  
section 3701.83 of the Revised Code for use only in administering 32081  
and enforcing this chapter and rules adopted under it. 32082

(E)(1) Except as otherwise provided in this section, the 32083  
results of an inspection or investigation of a home that is 32084  
conducted under this section, including any statement of 32085  
deficiencies and all findings and deficiencies cited in the 32086

statement on the basis of the inspection or investigation, shall 32087  
be used solely to determine the home's compliance with this 32088  
chapter or another chapter of the Revised Code in any action or 32089  
proceeding other than an action commenced under division (I) of 32090  
section 3721.17 of the Revised Code. Those results of an 32091  
inspection or investigation, that statement of deficiencies, and 32092  
the findings and deficiencies cited in that statement shall not be 32093  
used in any court or in any action or proceeding that is pending 32094  
in any court and are not admissible in evidence in any action or 32095  
proceeding unless that action or proceeding is an appeal of an 32096  
action by the department of health under this chapter or is an 32097  
action by any department or agency of the state to enforce this 32098  
chapter or another chapter of the Revised Code. 32099

(2) Nothing in division (E)(1) of this section prohibits the 32100  
results of an inspection or investigation conducted under this 32101  
section from being used in a criminal investigation or 32102  
prosecution. 32103

**Sec. 3721.121.** (A) As used in this section: 32104

(1) "Adult day-care program" means a program operated 32105  
pursuant to rules adopted by the public health council under 32106  
section 3721.04 of the Revised Code and provided by and on the 32107  
same site as homes licensed under this chapter. 32108

(2) "Applicant" means a person who is under final 32109  
consideration for employment with a home or adult day-care program 32110  
in a full-time, part-time, or temporary position that involves 32111  
providing direct care to an older adult. "Applicant" does not 32112  
include a person who provides direct care as a volunteer without 32113  
receiving or expecting to receive any form of remuneration other 32114  
than reimbursement for actual expenses. 32115

(3) "Criminal records check" and "older adult" have the same 32116  
meanings as in section 109.572 of the Revised Code. 32117

(4) "Home" means a home as defined in section 3721.10 of the Revised Code. 32118  
32119

(B)(1) Except as provided in division (I) of this section, 32120  
the chief administrator of a home or adult day-care program shall 32121  
request that the superintendent of the bureau of criminal 32122  
identification and investigation conduct a criminal records check 32123  
with respect to each applicant. If an applicant for whom a 32124  
criminal records check request is required under this division 32125  
does not present proof of having been a resident of this state for 32126  
the five-year period immediately prior to the date the criminal 32127  
records check is requested or provide evidence that within that 32128  
five-year period the superintendent has requested information 32129  
about the applicant from the federal bureau of investigation in a 32130  
criminal records check, the chief administrator shall request that 32131  
the superintendent obtain information from the federal bureau of 32132  
investigation as part of the criminal records check of the 32133  
applicant. Even if an applicant for whom a criminal records check 32134  
request is required under this division presents proof of having 32135  
been a resident of this state for the five-year period, the chief 32136  
administrator may request that the superintendent include 32137  
information from the federal bureau of investigation in the 32138  
criminal records check. 32139

(2) A person required by division (B)(1) of this section to 32140  
request a criminal records check shall do both of the following: 32141

(a) Provide to each applicant for whom a criminal records 32142  
check request is required under that division a copy of the form 32143  
prescribed pursuant to division (C)(1) of section 109.572 of the 32144  
Revised Code and a standard fingerprint impression sheet 32145  
prescribed pursuant to division (C)(2) of that section, and obtain 32146  
the completed form and impression sheet from the applicant; 32147

(b) Forward the completed form and impression sheet to the 32148

superintendent of the bureau of criminal identification and 32149  
investigation. 32150

(3) An applicant provided the form and fingerprint impression 32151  
sheet under division (B)(2)(a) of this section who fails to 32152  
complete the form or provide fingerprint impressions shall not be 32153  
employed in any position for which a criminal records check is 32154  
required by this section. 32155

(C)(1) Except as provided in rules adopted by the director of 32156  
health in accordance with division (F) of this section and subject 32157  
to division (C)(2) of this section, no home or adult day-care 32158  
program shall employ a person in a position that involves 32159  
providing direct care to an older adult if the person has been 32160  
convicted of or pleaded guilty to any of the following: 32161

(a) A violation of section 2903.01, 2903.02, 2903.03, 32162  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 32163  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 32164  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 32165  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 32166  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 32167  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 32168  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 32169  
2925.22, 2925.23, or 3716.11 of the Revised Code. 32170

(b) A violation of an existing or former law of this state, 32171  
any other state, or the United States that is substantially 32172  
equivalent to any of the offenses listed in division (C)(1)(a) of 32173  
this section. 32174

(2)(a) A home or an adult day-care program may employ 32175  
conditionally an applicant for whom a criminal records check 32176  
request is required under division (B) of this section prior to 32177  
obtaining the results of a criminal records check regarding the 32178  
individual, provided that the home or program shall request a 32179

criminal records check regarding the individual in accordance with 32180  
division (B)(1) of this section not later than five business days 32181  
after the individual begins conditional employment. In the 32182  
circumstances described in division (I)(2) of this section, a home 32183  
or adult day-care program may employ conditionally an applicant 32184  
who has been referred to the home or adult day-care program by an 32185  
employment service that supplies full-time, part-time, or 32186  
temporary staff for positions involving the direct care of older 32187  
adults and for whom, pursuant to that division, a criminal records 32188  
check is not required under division (B) of this section. 32189

(b) A home or adult day-care program that employs an 32190  
individual conditionally under authority of division (C)(2)(a) of 32191  
this section shall terminate the individual's employment if the 32192  
results of the criminal records check requested under division (B) 32193  
of this section or described in division (I)(2) of this section, 32194  
other than the results of any request for information from the 32195  
federal bureau of investigation, are not obtained within the 32196  
period ending ~~sixty~~ thirty days after the date the request is 32197  
made. Regardless of when the results of the criminal records check 32198  
are obtained, if the results indicate that the individual has been 32199  
convicted of or pleaded guilty to any of the offenses listed or 32200  
described in division (C)(1) of this section, the home or program 32201  
shall terminate the individual's employment unless the home or 32202  
program chooses to employ the individual pursuant to division (F) 32203  
of this section. Termination of employment under this division 32204  
shall be considered just cause for discharge for purposes of 32205  
division (D)(2) of section 4141.29 of the Revised Code if the 32206  
individual makes any attempt to deceive the home or program about 32207  
the individual's criminal record. 32208

(D)(1) Each home or adult day-care program shall pay to the 32209  
bureau of criminal identification and investigation the fee 32210  
prescribed pursuant to division (C)(3) of section 109.572 of the 32211

Revised Code for each criminal records check conducted pursuant to 32212  
a request made under division (B) of this section. 32213

(2) A home or adult day-care program may charge an applicant 32214  
a fee not exceeding the amount the home or program pays under 32215  
division (D)(1) of this section. A home or program may collect a 32216  
fee only if both of the following apply: 32217

(a) The home or program notifies the person at the time of 32218  
initial application for employment of the amount of the fee and 32219  
that, unless the fee is paid, the person will not be considered 32220  
for employment; 32221

(b) The medical assistance program established under Chapter 32222  
5111. of the Revised Code does not reimburse the home or program 32223  
the fee it pays under division (D)(1) of this section. 32224

(E) The report of any criminal records check conducted 32225  
pursuant to a request made under this section is not a public 32226  
record for the purposes of section 149.43 of the Revised Code and 32227  
shall not be made available to any person other than the 32228  
following: 32229

(1) The individual who is the subject of the criminal records 32230  
check or the individual's representative; 32231

(2) The chief administrator of the home or program requesting 32232  
the criminal records check or the administrator's representative; 32233

(3) The administrator of any other facility, agency, or 32234  
program that provides direct care to older adults that is owned or 32235  
operated by the same entity that owns or operates the home or 32236  
program; 32237

(4) A court, hearing officer, or other necessary individual 32238  
involved in a case dealing with a denial of employment of the 32239  
applicant or dealing with employment or unemployment benefits of 32240  
the applicant; 32241

(5) Any person to whom the report is provided pursuant to, 32242  
and in accordance with, division (I)(1) or (2) of this section. 32243

(F) In accordance with section 3721.11 of the Revised Code, 32244  
the director of health shall adopt rules to implement this 32245  
section. The rules shall specify circumstances under which a home 32246  
or adult day-care program may employ a person who has been 32247  
convicted of or pleaded guilty to an offense listed or described 32248  
in division (C)(1) of this section but meets personal character 32249  
standards set by the director. 32250

(G) The chief administrator of a home or adult day-care 32251  
program shall inform each individual, at the time of initial 32252  
application for a position that involves providing direct care to 32253  
an older adult, that the individual is required to provide a set 32254  
of fingerprint impressions and that a criminal records check is 32255  
required to be conducted if the individual comes under final 32256  
consideration for employment. 32257

(H) In a tort or other civil action for damages that is 32258  
brought as the result of an injury, death, or loss to person or 32259  
property caused by an individual who a home or adult day-care 32260  
program employs in a position that involves providing direct care 32261  
to older adults, all of the following shall apply: 32262

(1) If the home or program employed the individual in good 32263  
faith and reasonable reliance on the report of a criminal records 32264  
check requested under this section, the home or program shall not 32265  
be found negligent solely because of its reliance on the report, 32266  
even if the information in the report is determined later to have 32267  
been incomplete or inaccurate; 32268

(2) If the home or program employed the individual in good 32269  
faith on a conditional basis pursuant to division (C)(2) of this 32270  
section, the home or program shall not be found negligent solely 32271  
because it employed the individual prior to receiving the report 32272

of a criminal records check requested under this section; 32273

(3) If the home or program in good faith employed the 32274  
individual according to the personal character standards 32275  
established in rules adopted under division (F) of this section, 32276  
the home or program shall not be found negligent solely because 32277  
the individual prior to being employed had been convicted of or 32278  
pleaded guilty to an offense listed or described in division 32279  
(C)(1) of this section. 32280

(I)(1) The chief administrator of a home or adult day-care 32281  
program is not required to request that the superintendent of the 32282  
bureau of criminal identification and investigation conduct a 32283  
criminal records check of an applicant if the applicant has been 32284  
referred to the home or program by an employment service that 32285  
supplies full-time, part-time, or temporary staff for positions 32286  
involving the direct care of older adults and both of the 32287  
following apply: 32288

(a) The chief administrator receives from the employment 32289  
service or the applicant a report of the results of a criminal 32290  
records check regarding the applicant that has been conducted by 32291  
the superintendent within the one-year period immediately 32292  
preceding the applicant's referral; 32293

(b) The report of the criminal records check demonstrates 32294  
that the person has not been convicted of or pleaded guilty to an 32295  
offense listed or described in division (C)(1) of this section, or 32296  
the report demonstrates that the person has been convicted of or 32297  
pleaded guilty to one or more of those offenses, but the home or 32298  
adult day-care program chooses to employ the individual pursuant 32299  
to division (F) of this section. 32300

(2) The chief administrator of a home or adult day-care 32301  
program is not required to request that the superintendent of the 32302  
bureau of criminal identification and investigation conduct a 32303

criminal records check of an applicant and may employ the 32304  
applicant conditionally as described in this division, if the 32305  
applicant has been referred to the home or program by an 32306  
employment service that supplies full-time, part-time, or 32307  
temporary staff for positions involving the direct care of older 32308  
adults and if the chief administrator receives from the employment 32309  
service or the applicant a letter from the employment service that 32310  
is on the letterhead of the employment service, dated, and signed 32311  
by a supervisor or another designated official of the employment 32312  
service and that states that the employment service has requested 32313  
the superintendent to conduct a criminal records check regarding 32314  
the applicant, that the requested criminal records check will 32315  
include a determination of whether the applicant has been 32316  
convicted of or pleaded guilty to any offense listed or described 32317  
in division (C)(1) of this section, that, as of the date set forth 32318  
on the letter, the employment service had not received the results 32319  
of the criminal records check, and that, when the employment 32320  
service receives the results of the criminal records check, it 32321  
promptly will send a copy of the results to the home or adult-care 32322  
program. If a home or adult day-care program employs an applicant 32323  
conditionally in accordance with this division, the employment 32324  
service, upon its receipt of the results of the criminal records 32325  
check, promptly shall send a copy of the results to the home or 32326  
adult day-care program, and division (C)(2)(b) of this section 32327  
applies regarding the conditional employment. 32328

**Sec. 3721.19.** (A) As used in this section: 32329

(1) "Home" and "residential care facility" have the same 32330  
meanings as in section 3721.01 of the Revised Code; 32331

(2) "Sponsor" and "residents' rights advocate" have the same 32332  
meanings as in section 3721.10 of the Revised Code. 32333

A home licensed under this chapter that is not a party to a 32334

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 32367  
agreement. At the time the information is provided, the facility 32368  
shall obtain a statement signed by the individual receiving the 32369  
information acknowledging that the individual received the 32370  
information. The facility shall maintain on file the individual's 32371  
signed statement. 32372

(C) A resident has a cause of action against a home for 32373  
breach of any duty imposed by this section. The action may be 32374  
commenced by the resident, or on the resident's behalf by the 32375  
resident's sponsor or a residents' rights advocate, by the filing 32376  
of a civil action in the court of common pleas of the county in 32377  
which the home is located, or in the court of common pleas of 32378  
Franklin county. 32379

If the court finds that a breach of any duty imposed by this 32380  
section has occurred, the court shall enjoin the home from 32381  
discharging the resident from the home until arrangements 32382  
satisfactory to the court are made for the orderly transfer of the 32383  
resident to another mode of health care including, but not limited 32384  
to, another home, and may award the resident and a person or 32385  
public agency that brings an action on behalf of a resident 32386  
reasonable attorney's fees. If a home discharges a resident to 32387  
whom or to whose sponsor information concerning its status 32388  
relative to the medical assistance program was not provided as 32389  
required under this section, the court shall grant any appropriate 32390  
relief including, but not limited to, actual damages, reasonable 32391  
attorney's fees, and costs. 32392

**Sec. 3721.51.** The department of job and family services 32393  
shall: 32394

(A) For the purposes specified in section 3721.56 of the 32395  
Revised Code, determine an annual franchise permit fee on each 32396  
nursing home in an amount equal to three dollars and thirty cents 32397

for fiscal year 2002, four dollars and thirty cents for fiscal 32398  
~~years year 2003 through, four dollars and seventy-five cents for~~ 32399  
fiscal year 2004, four dollars and ninety-five cents for fiscal 32400  
year 2005, and one dollar for each fiscal year thereafter, 32401  
multiplied by the product of the following: 32402

(1) The number of beds licensed as nursing home beds, plus 32403  
any other beds certified as skilled nursing facility beds under 32404  
Title XVIII or nursing facility beds under Title XIX of the 32405  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 32406  
amended, on July 1, 1993, and, for each subsequent year, the first 32407  
day of May of the calendar year in which the fee is determined 32408  
pursuant to division (A) of section 3721.53 of the Revised Code; 32409

(2) The number of days in fiscal year 1994 and, for each 32410  
subsequent year, the number of days in the fiscal year beginning 32411  
on the first day of July of the calendar year in which the fee is 32412  
determined pursuant to division (A) of section 3721.53 of the 32413  
Revised Code. 32414

(B) For the purposes specified in section 3721.56 of the 32415  
Revised Code, determine an annual franchise permit fee on each 32416  
hospital in an amount equal to three dollars and thirty cents for 32417  
fiscal year 2002, four dollars and thirty cents for fiscal ~~years~~ 32418  
year 2003 through, four dollars and seventy-five cents for fiscal 32419  
year 2004, four dollars and ninety-five cents for fiscal year 32420  
2005, and one dollar for each fiscal year thereafter, multiplied 32421  
by the product of the following: 32422

(1) The number of beds registered pursuant to section 3701.07 32423  
of the Revised Code as skilled nursing facility beds or long-term 32424  
care beds, plus any other beds licensed as nursing home beds under 32425  
section 3721.02 or 3721.09 of the Revised Code, on July 1, 1993, 32426  
and, for each subsequent year, the first day of May of the 32427  
calendar year in which the fee is determined pursuant to division 32428  
(A) of section 3721.53 of the Revised Code; 32429

(2) The number of days in fiscal year 1994 and, for each 32430  
subsequent year, the number of days in the fiscal year beginning 32431  
on the first day of July of the calendar year in which the fee is 32432  
determined pursuant to division (A) of section 3721.53 of the 32433  
Revised Code. 32434

If the United States centers for medicare and medicaid 32435  
services determines that the franchise permit fee established by 32436  
sections 3721.50 to 3721.58 of the Revised Code would be an 32437  
impermissible health care related tax under section 1903(w) of the 32438  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 32439  
amended, the department of job and family services shall take all 32440  
necessary actions to cease implementation of those sections in 32441  
accordance with rules adopted under section 3721.58 of the Revised 32442  
Code. 32443

**Sec. 3721.56.** (A) Thirty and three-tenths per cent of all 32444  
payments and penalties paid by nursing homes and hospitals under 32445  
sections 3721.53 and 3721.54 of the Revised Code for fiscal year 32446  
2002, twenty-three and twenty-six-hundredths per cent of such 32447  
payments and penalties paid for fiscal ~~years~~ year 2003 ~~through,~~ 32448  
twenty-one and five-hundredths per cent of such payments and 32449  
penalties paid for fiscal year 2004, twenty and two-tenths per 32450  
cent of such payments and penalties paid for fiscal year 2005, and 32451  
all such payments and penalties paid for subsequent fiscal years, 32452  
shall be deposited into the "home and community-based services for 32453  
the aged fund," which is hereby created in the state treasury. The 32454  
departments of job and family services and aging shall use the 32455  
moneys in the fund to fund the following in accordance with rules 32456  
adopted under section 3721.58 of the Revised Code: 32457

(1) The ~~medical assistance~~ medicaid program established under 32458  
Chapter 5111. of the Revised Code; 32459

(2) The PASSPORT program established under section 173.40 of 32460

the Revised Code; 32461

(3) The residential state supplement program established 32462  
under section 173.35 of the Revised Code. 32463

(B) Sixty-nine and seven-tenths per cent of all payments and 32464  
penalties paid by nursing homes and hospitals under sections 32465  
3721.53 and 3721.54 of the Revised Code for fiscal year 2002, ~~and~~ 32466  
seventy-six and seventy-four-hundredths per cent of such payments 32467  
and penalties paid for fiscal ~~years~~ year 2003 ~~through,~~ 32468  
seventy-eight and ninety-five hundredths per cent of such payments 32469  
and penalties paid for fiscal year 2004, and seventy-nine and 32470  
eight-tenths per cent of such payments and penalties paid for 32471  
fiscal year 2005, shall be deposited into the nursing facility 32472  
stabilization fund, which is hereby created in the state treasury. 32473  
The department of job and family services shall use the money in 32474  
the fund ~~in the manner provided by Am. Sub. H.B. 94 and Am. Sub-~~ 32475  
~~S.B. 261 of the 124th general assembly to make payments to nursing~~ 32476  
facilities under the medicaid program. 32477

Sec. 3721.561. Any money remaining in the nursing facility 32478  
stabilization fund created under section 3721.56 of the Revised 32479  
Code after payments specified in division (B) of that section are 32480  
made for fiscal years 2002 through 2005 shall be retained in the 32481  
fund. Any interest or other investment proceeds earned on money in 32482  
the fund shall be credited to the fund and used to make payments 32483  
in accordance with division (B) of section 3721.56 of the Revised 32484  
Code. 32485

**Sec. 3722.151.** (A) As used in this section: 32486

(1) "Adult care facility" has the same meaning as in section 32487  
3722.01 of the Revised Code. 32488

(2) "Applicant" means a person who is under final 32489  
consideration for employment with an adult care facility in a 32490

full-time, part-time, or temporary position that involves 32491  
providing direct care to an older adult. "Applicant" does not 32492  
include a person who provides direct care as a volunteer without 32493  
receiving or expecting to receive any form of remuneration other 32494  
than reimbursement for actual expenses. 32495

(3) "Criminal records check" and "older adult" have the same 32496  
meanings as in section 109.572 of the Revised Code. 32497

(B)(1) Except as provided in division (I) of this section, 32498  
the chief administrator of an adult care facility shall request 32499  
that the superintendent of the bureau of criminal identification 32500  
and investigation conduct a criminal records check with respect to 32501  
each applicant. If an applicant for whom a criminal records check 32502  
request is required under this division does not present proof of 32503  
having been a resident of this state for the five-year period 32504  
immediately prior to the date the criminal records check is 32505  
requested or provide evidence that within that five-year period 32506  
the superintendent has requested information about the applicant 32507  
from the federal bureau of investigation in a criminal records 32508  
check, the chief administrator shall request that the 32509  
superintendent obtain information from the federal bureau of 32510  
investigation as part of the criminal records check of the 32511  
applicant. Even if an applicant for whom a criminal records check 32512  
request is required under this division presents proof of having 32513  
been a resident of this state for the five-year period, the chief 32514  
administrator may request that the superintendent include 32515  
information from the federal bureau of investigation in the 32516  
criminal records check. 32517

(2) A person required by division (B)(1) of this section to 32518  
request a criminal records check shall do both of the following: 32519

(a) Provide to each applicant for whom a criminal records 32520  
check request is required under that division a copy of the form 32521  
prescribed pursuant to division (C)(1) of section 109.572 of the 32522

Revised Code and a standard fingerprint impression sheet 32523  
prescribed pursuant to division (C)(2) of that section, and obtain 32524  
the completed form and impression sheet from the applicant; 32525

(b) Forward the completed form and impression sheet to the 32526  
superintendent of the bureau of criminal identification and 32527  
investigation. 32528

(3) An applicant provided the form and fingerprint impression 32529  
sheet under division (B)(2)(a) of this section who fails to 32530  
complete the form or provide fingerprint impressions shall not be 32531  
employed in any position for which a criminal records check is 32532  
required by this section. 32533

(C)(1) Except as provided in rules adopted by the public 32534  
health council in accordance with division (F) of this section and 32535  
subject to division (C)(2) of this section, no adult care facility 32536  
shall employ a person in a position that involves providing direct 32537  
care to an older adult if the person has been convicted of or 32538  
pleaded guilty to any of the following: 32539

(a) A violation of section 2903.01, 2903.02, 2903.03, 32540  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 32541  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 32542  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 32543  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 32544  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 32545  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 32546  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 32547  
2925.22, 2925.23, or 3716.11 of the Revised Code. 32548

(b) A violation of an existing or former law of this state, 32549  
any other state, or the United States that is substantially 32550  
equivalent to any of the offenses listed in division (C)(1)(a) of 32551  
this section. 32552

(2)(a) An adult care facility may employ conditionally an 32553

applicant for whom a criminal records check request is required 32554  
under division (B) of this section prior to obtaining the results 32555  
of a criminal records check regarding the individual, provided 32556  
that the facility shall request a criminal records check regarding 32557  
the individual in accordance with division (B)(1) of this section 32558  
not later than five business days after the individual begins 32559  
conditional employment. In the circumstances described in division 32560  
(I)(2) of this section, an adult care facility may employ 32561  
conditionally an applicant who has been referred to the adult care 32562  
facility by an employment service that supplies full-time, 32563  
part-time, or temporary staff for positions involving the direct 32564  
care of older adults and for whom, pursuant to that division, a 32565  
criminal records check is not required under division (B) of this 32566  
section. 32567

(b) An adult care facility that employs an individual 32568  
conditionally under authority of division (C)(2)(a) of this 32569  
section shall terminate the individual's employment if the results 32570  
of the criminal records check requested under division (B) of this 32571  
section or described in division (I)(2) of this section, other 32572  
than the results of any request for information from the federal 32573  
bureau of investigation, are not obtained within the period ending 32574  
~~sixty~~ thirty days after the date the request is made. Regardless 32575  
of when the results of the criminal records check are obtained, if 32576  
the results indicate that the individual has been convicted of or 32577  
pleaded guilty to any of the offenses listed or described in 32578  
division (C)(1) of this section, the facility shall terminate the 32579  
individual's employment unless the facility chooses to employ the 32580  
individual pursuant to division (F) of this section. Termination 32581  
of employment under this division shall be considered just cause 32582  
for discharge for purposes of division (D)(2) of section 4141.29 32583  
of the Revised Code if the individual makes any attempt to deceive 32584  
the facility about the individual's criminal record. 32585

(D)(1) Each adult care facility shall pay to the bureau of 32586  
criminal identification and investigation the fee prescribed 32587  
pursuant to division (C)(3) of section 109.572 of the Revised Code 32588  
for each criminal records check conducted pursuant to a request 32589  
made under division (B) of this section. 32590

(2) An adult care facility may charge an applicant a fee not 32591  
exceeding the amount the facility pays under division (D)(1) of 32592  
this section. A facility may collect a fee only if it notifies the 32593  
person at the time of initial application for employment of the 32594  
amount of the fee and that, unless the fee is paid, the person 32595  
will not be considered for employment. 32596

(E) The report of any criminal records check conducted 32597  
pursuant to a request made under this section is not a public 32598  
record for the purposes of section 149.43 of the Revised Code and 32599  
shall not be made available to any person other than the 32600  
following: 32601

(1) The individual who is the subject of the criminal records 32602  
check or the individual's representative; 32603

(2) The chief administrator of the facility requesting the 32604  
criminal records check or the administrator's representative; 32605

(3) The administrator of any other facility, agency, or 32606  
program that provides direct care to older adults that is owned or 32607  
operated by the same entity that owns or operates the adult care 32608  
facility; 32609

(4) A court, hearing officer, or other necessary individual 32610  
involved in a case dealing with a denial of employment of the 32611  
applicant or dealing with employment or unemployment benefits of 32612  
the applicant; 32613

(5) Any person to whom the report is provided pursuant to, 32614  
and in accordance with, division (I)(1) or (2) of this section. 32615

(F) The public health council shall adopt rules in accordance 32616  
with Chapter 119. of the Revised Code to implement this section. 32617  
The rules shall specify circumstances under which an adult care 32618  
facility may employ a person who has been convicted of or pleaded 32619  
guilty to an offense listed or described in division (C)(1) of 32620  
this section but meets personal character standards set by the 32621  
council. 32622

(G) The chief administrator of an adult care facility shall 32623  
inform each individual, at the time of initial application for a 32624  
position that involves providing direct care to an older adult, 32625  
that the individual is required to provide a set of fingerprint 32626  
impressions and that a criminal records check is required to be 32627  
conducted if the individual comes under final consideration for 32628  
employment. 32629

(H) In a tort or other civil action for damages that is 32630  
brought as the result of an injury, death, or loss to person or 32631  
property caused by an individual who an adult care facility 32632  
employs in a position that involves providing direct care to older 32633  
adults, all of the following shall apply: 32634

(1) If the facility employed the individual in good faith and 32635  
reasonable reliance on the report of a criminal records check 32636  
requested under this section, the facility shall not be found 32637  
negligent solely because of its reliance on the report, even if 32638  
the information in the report is determined later to have been 32639  
incomplete or inaccurate; 32640

(2) If the facility employed the individual in good faith on 32641  
a conditional basis pursuant to division (C)(2) of this section, 32642  
the facility shall not be found negligent solely because it 32643  
employed the individual prior to receiving the report of a 32644  
criminal records check requested under this section; 32645

(3) If the facility in good faith employed the individual 32646

according to the personal character standards established in rules 32647  
adopted under division (F) of this section, the facility shall not 32648  
be found negligent solely because the individual prior to being 32649  
employed had been convicted of or pleaded guilty to an offense 32650  
listed or described in division (C)(1) of this section. 32651

(I)(1) The chief administrator of an adult care facility is 32652  
not required to request that the superintendent of the bureau of 32653  
criminal identification and investigation conduct a criminal 32654  
records check of an applicant if the applicant has been referred 32655  
to the facility by an employment service that supplies full-time, 32656  
part-time, or temporary staff for positions involving the direct 32657  
care of older adults and both of the following apply: 32658

(a) The chief administrator receives from the employment 32659  
service or the applicant a report of the results of a criminal 32660  
records check regarding the applicant that has been conducted by 32661  
the superintendent within the one-year period immediately 32662  
preceding the applicant's referral; 32663

(b) The report of the criminal records check demonstrates 32664  
that the person has not been convicted of or pleaded guilty to an 32665  
offense listed or described in division (C)(1) of this section, or 32666  
the report demonstrates that the person has been convicted of or 32667  
pleaded guilty to one or more of those offenses, but the adult 32668  
care facility chooses to employ the individual pursuant to 32669  
division (F) of this section. 32670

(2) The chief administrator of an adult care facility is not 32671  
required to request that the superintendent of the bureau of 32672  
criminal identification and investigation conduct a criminal 32673  
records check of an applicant and may employ the applicant 32674  
conditionally as described in this division, if the applicant has 32675  
been referred to the facility by an employment service that 32676  
supplies full-time, part-time, or temporary staff for positions 32677  
involving the direct care of older adults and if the chief 32678

administrator receives from the employment service or the 32679  
applicant a letter from the employment service that is on the 32680  
letterhead of the employment service, dated, and signed by a 32681  
supervisor or another designated official of the employment 32682  
service and that states that the employment service has requested 32683  
the superintendent to conduct a criminal records check regarding 32684  
the applicant, that the requested criminal records check will 32685  
include a determination of whether the applicant has been 32686  
convicted of or pleaded guilty to any offense listed or described 32687  
in division (C)(1) of this section, that, as of the date set forth 32688  
on the letter, the employment service had not received the results 32689  
of the criminal records check, and that, when the employment 32690  
service receives the results of the criminal records check, it 32691  
promptly will send a copy of the results to the adult care 32692  
facility. If an adult care facility employs an applicant 32693  
conditionally in accordance with this division, the employment 32694  
service, upon its receipt of the results of the criminal records 32695  
check, promptly shall send a copy of the results to the adult care 32696  
facility, and division (C)(2)(b) of this section applies regarding 32697  
the conditional employment. 32698

**Sec. 3733.43.** (A) Except as otherwise provided in this 32699  
division, prior to the fifteenth day of April in each year, every 32700  
person who intends to operate an agricultural labor camp shall 32701  
make application to the licenser for a license to operate such 32702  
camp, effective for the calendar year in which it is issued. The 32703  
licenser may accept an application on or after the fifteenth day 32704  
of April. The license fees specified in this division shall be 32705  
submitted to the licenser with the application for a license. No 32706  
agricultural labor camp shall be operated in this state without a 32707  
license. Any person operating an agricultural labor camp without a 32708  
current and valid agricultural labor camp license is not excepted 32709  
from compliance with sections 3733.41 to 3733.49 of the Revised 32710

Code by holding a valid and current hotel license. Each person 32711  
proposing to open an agricultural labor camp shall submit with the 32712  
application for a license any plans required by any rule adopted 32713  
under section 3733.42 of the Revised Code. The annual license fee 32714  
is ~~twenty~~ seventy-five dollars, unless the application for a 32715  
license is made on or after the fifteenth day of April, in which 32716  
case the annual license fee is ~~forty~~ one hundred dollars. An 32717  
additional fee of ~~three~~ ten dollars per housing unit per year 32718  
shall be assessed to defray the costs of enforcing sections 32719  
3733.41 to 3733.49 of the Revised Code, unless the application for 32720  
a license is made on or after the fifteenth day of April, in which 32721  
case an additional fee of ~~six~~ fifteen dollars per housing unit 32722  
shall be assessed. All fees collected under this division shall be 32723  
deposited in the state treasury to the credit of the general 32724  
operations fund created in section 3701.83 of the Revised Code and 32725  
shall be used for the administration and enforcement of sections 32726  
3733.41 to 3733.49 of the Revised Code and rules adopted 32727  
thereunder. 32728

(B) Any license under this section may be denied, suspended, 32729  
or revoked by the licensor for violation of sections 3733.41 to 32730  
3733.49 of the Revised Code or the rules adopted thereunder. 32731  
Unless there is an immediate serious public health hazard, no 32732  
denial, suspension, or revocation of a license shall be made 32733  
effective until the person operating the agricultural labor camp 32734  
has been given notice in writing of the specific violations and a 32735  
reasonable time to make corrections. When the licensor determines 32736  
that an immediate serious public health hazard exists, ~~he~~ the 32737  
licensor shall issue an order denying or suspending the license 32738  
without a prior hearing. 32739

(C) All proceedings under this section are subject to Chapter 32740  
119. of the Revised Code except as provided in section 3733.431 of 32741  
the Revised Code. 32742

(D) Every occupant of an agricultural labor camp shall keep 32743  
that part of the dwelling unit, and premises thereof, that ~~he~~ the 32744  
occupant occupies and controls in a clean and sanitary condition. 32745

**Sec. 3733.45.** (A) The licensor shall inspect all agricultural 32746  
labor camps and shall require compliance with sections 3733.41 to 32747  
3733.49 of the Revised Code and the rules adopted thereunder prior 32748  
to the issuance of a license. Upon receipt of a complaint from the 32749  
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 32750  
licensor's own information that an agricultural labor camp is 32751  
operating without a license, the licensor shall inspect the camp. 32752  
If the camp is operating without a license, the licensor shall 32753  
require the camp to comply with sections 3733.41 to 3733.49 of the 32754  
Revised Code and the rules adopted under those sections. No 32755  
license shall be issued unless results of water supply tests 32756  
indicate that the water supply meets required standards or if any 32757  
violations exist concerning sanitation, drainage, or habitability 32758  
of housing units. 32759

(B) The licensor shall, upon issuance of each license, 32760  
distribute posters containing the toll-free telephone number of 32761  
the migrant agricultural ~~ombudsman~~ ombudsperson established in 32762  
section 3733.49 of the Revised Code and information in English and 32763  
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 32764  
office, as provided in that section. The licensor shall provide at 32765  
least two posters to the licensee, one for ~~his~~ the licensee's 32766  
personal use and at least one that shall be posted in a 32767  
conspicuous place within the camp. 32768

(C) The licensor may, upon proper identification to the 32769  
operator or ~~his~~ the operator's agent, enter on any property or 32770  
into any structure at any reasonable time for the purpose of 32771  
making inspections required by this section. 32772

The licensor shall make at least one inspection prior to 32773

~~licensing, and at least two inspections during occupancy of the~~ 32774  
~~camp, at least one of which shall be an unannounced evening~~ 32775  
~~inspection conducted after five p.m. The licensor shall determine~~ 32776  
~~and record housing unit occupancy during each evening inspection.~~ 32777  
The licensor shall make such other inspections as ~~he~~ the licensor 32778  
considers necessary to enforce sections 3733.41 to 3733.49 of the 32779  
Revised Code adequately. 32780

(D) Any plans submitted to the licensor shall be in 32781  
compliance with rules adopted pursuant to section 3733.42 of the 32782  
Revised Code and shall be approved or disapproved within thirty 32783  
days after they are filed. 32784

~~(E) All designees of the licensor who conduct inspections in~~ 32785  
~~the evening in accordance with this section shall speak both~~ 32786  
~~English and Spanish fluently. At least one member of the permanent~~ 32787  
~~staff assigned to conduct inspections in accordance with this~~ 32788  
~~section shall speak both English and Spanish fluently.~~ 32789

~~(F)~~ The licensor shall issue an annual report that shall 32790  
accurately reflect the results of that year's inspections, 32791  
including, but not limited to, numbers of ~~pre and post occupancy~~ 32792  
inspections, number of violations found, and action taken in 32793  
regard to violations. The report shall also include an assessment 32794  
of any problems found in that year and proposed solutions for 32795  
them. 32796

**Sec. 3734.02.** (A) The director of environmental protection, 32797  
in accordance with Chapter 119. of the Revised Code, shall adopt 32798  
and may amend, suspend, or rescind rules having uniform 32799  
application throughout the state governing solid waste facilities 32800  
and the inspections of and issuance of permits and licenses for 32801  
all solid waste facilities in order to ensure that the facilities 32802  
will be located, maintained, and operated, and will undergo 32803  
closure and post-closure care, in a sanitary manner so as not to 32804

create a nuisance, cause or contribute to water pollution, create 32805  
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 32806  
257.3-8, as amended. The rules may include, without limitation, 32807  
financial assurance requirements for closure and post-closure care 32808  
and corrective action and requirements for taking corrective 32809  
action in the event of the surface or subsurface discharge or 32810  
migration of explosive gases or leachate from a solid waste 32811  
facility, or of ground water contamination resulting from the 32812  
transfer or disposal of solid wastes at a facility, beyond the 32813  
boundaries of any area within a facility that is operating or is 32814  
undergoing closure or post-closure care where solid wastes were 32815  
disposed of or are being disposed of. The rules shall not concern 32816  
or relate to personnel policies, salaries, wages, fringe benefits, 32817  
or other conditions of employment of employees of persons owning 32818  
or operating solid waste facilities. The director, in accordance 32819  
with Chapter 119. of the Revised Code, shall adopt and may amend, 32820  
suspend, or rescind rules governing the issuance, modification, 32821  
revocation, suspension, or denial of variances from the director's 32822  
solid waste rules, including, without limitation, rules adopted 32823  
under this chapter governing the management of scrap tires. 32824

Variances shall be issued, modified, revoked, suspended, or 32825  
rescinded in accordance with this division, rules adopted under 32826  
it, and Chapter 3745. of the Revised Code. The director may order 32827  
the person to whom a variance is issued to take such action within 32828  
such time as the director may determine to be appropriate and 32829  
reasonable to prevent the creation of a nuisance or a hazard to 32830  
the public health or safety or the environment. Applications for 32831  
variances shall contain such detail plans, specifications, and 32832  
information regarding objectives, procedures, controls, and other 32833  
pertinent data as the director may require. The director shall 32834  
grant a variance only if the applicant demonstrates to the 32835  
director's satisfaction that construction and operation of the 32836  
solid waste facility in the manner allowed by the variance and any 32837

terms or conditions imposed as part of the variance will not 32838  
create a nuisance or a hazard to the public health or safety or 32839  
the environment. In granting any variance, the director shall 32840  
state the specific provision or provisions whose terms are to be 32841  
varied and also shall state specific terms or conditions imposed 32842  
upon the applicant in place of the provision or provisions. The 32843  
director may hold a public hearing on an application for a 32844  
variance or renewal of a variance at a location in the county 32845  
where the operations that are the subject of the application for 32846  
the variance are conducted. The director shall give not less than 32847  
twenty days' notice of the hearing to the applicant by certified 32848  
mail and shall publish at least one notice of the hearing in a 32849  
newspaper with general circulation in the county where the hearing 32850  
is to be held. The director shall make available for public 32851  
inspection at the principal office of the environmental protection 32852  
agency a current list of pending applications for variances and a 32853  
current schedule of pending variance hearings. The director shall 32854  
make a complete stenographic record of testimony and other 32855  
evidence submitted at the hearing. Within ten days after the 32856  
hearing, the director shall make a written determination to issue, 32857  
renew, or deny the variance and shall enter the determination and 32858  
the basis for it into the record of the hearing. The director 32859  
shall issue, renew, or deny an application for a variance or 32860  
renewal of a variance within six months of the date upon which the 32861  
director receives a complete application with all pertinent 32862  
information and data required. No variance shall be issued, 32863  
revoked, modified, or denied until the director has considered the 32864  
relative interests of the applicant, other persons and property 32865  
affected by the variance, and the general public. Any variance 32866  
granted under this division shall be for a period specified by the 32867  
director and may be renewed from time to time on such terms and 32868  
for such periods as the director determines to be appropriate. No 32869  
application shall be denied and no variance shall be revoked or 32870

modified without a written order stating the findings upon which 32871  
the denial, revocation, or modification is based. A copy of the 32872  
order shall be sent to the applicant or variance holder by 32873  
certified mail. 32874

(B) The director shall prescribe and furnish the forms 32875  
necessary to administer and enforce this chapter. The director may 32876  
cooperate with and enter into agreements with other state, local, 32877  
or federal agencies to carry out the purposes of this chapter. The 32878  
director may exercise all incidental powers necessary to carry out 32879  
the purposes of this chapter. 32880

The director may use moneys in the infectious waste 32881  
management fund created in section 3734.021 of the Revised Code 32882  
exclusively for administering and enforcing the provisions of this 32883  
chapter governing the management of infectious wastes. Of each 32884  
registration and renewal fee collected under rules adopted under 32885  
division (A)(2)(a) of section 3734.021 or under section 3734.022 32886  
of the Revised Code, the director, within forty-five days of its 32887  
receipt, shall remit from the fund one-half of the fee received to 32888  
the board of health of the health district in which the registered 32889  
premises is located, or, in the instance of an infectious wastes 32890  
transporter, to the board of health of the health district in 32891  
which the transporter's principal place of business is located. 32892  
However, if the board of health having jurisdiction over a 32893  
registrant's premises or principal place of business is not on the 32894  
approved list under section 3734.08 of the Revised Code, the 32895  
director shall not make that payment to the board of health. 32896

(C) Except as provided in this division and divisions (N)(2) 32897  
and (3) of this section, no person shall establish a new solid 32898  
waste facility or infectious waste treatment facility, or modify 32899  
an existing solid waste facility or infectious waste treatment 32900  
facility, without submitting an application for a permit with 32901  
accompanying detail plans, specifications, and information 32902

regarding the facility and method of operation and receiving a 32903  
permit issued by the director, except that no permit shall be 32904  
required under this division to install or operate a solid waste 32905  
facility for sewage sludge treatment or disposal when the 32906  
treatment or disposal is authorized by a current permit issued 32907  
under Chapter 3704. or 6111. of the Revised Code. 32908

No person shall continue to operate a solid waste facility 32909  
for which the director has denied a permit for which an 32910  
application was required under division (A)(3) of section 3734.05 32911  
of the Revised Code, or for which the director has disapproved 32912  
plans and specifications required to be filed by an order issued 32913  
under division (A)(5) of that section, after the date prescribed 32914  
for commencement of closure of the facility in the order issued 32915  
under division (A)(6) of section 3734.05 of the Revised Code 32916  
denying the permit application or approval. 32917

On and after the effective date of the rules adopted under 32918  
division (A) of this section and division (D) of section 3734.12 32919  
of the Revised Code governing solid waste transfer facilities, no 32920  
person shall establish a new, or modify an existing, solid waste 32921  
transfer facility without first submitting an application for a 32922  
permit with accompanying engineering detail plans, specifications, 32923  
and information regarding the facility and its method of operation 32924  
to the director and receiving a permit issued by the director. 32925

No person shall establish a new compost facility or continue 32926  
to operate an existing compost facility that accepts exclusively 32927  
source separated yard wastes without submitting a completed 32928  
registration for the facility to the director in accordance with 32929  
rules adopted under divisions (A) and (N)(3) of this section. 32930

This division does not apply to an infectious waste treatment 32931  
facility that meets any of the following conditions: 32932

(1) Is owned or operated by the generator of the wastes and 32933

exclusively treats, by methods, techniques, and practices 32934  
established by rules adopted under division (C)(1) or (3) of 32935  
section 3734.021 of the Revised Code, wastes that are generated at 32936  
any premises owned or operated by that generator regardless of 32937  
whether the wastes are generated on the premises where the 32938  
generator's treatment facility is located or, if the generator is 32939  
a hospital as defined in section 3727.01 of the Revised Code, 32940  
infectious wastes that are described in division (A)(1)(g), (h), 32941  
or (i) of section 3734.021 of the Revised Code; 32942

(2) Holds a license or renewal of a license to operate a 32943  
crematory facility issued under Chapter 4717. and a permit issued 32944  
under Chapter 3704. of the Revised Code; 32945

(3) Treats or disposes of dead animals or parts thereof, or 32946  
the blood of animals, and is subject to any of the following: 32947

(a) Inspection under the "Federal Meat Inspection Act," 81 32948  
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 32949

(b) Chapter 918. of the Revised Code; 32950

(c) Chapter 953. of the Revised Code. 32951

(D) Neither this chapter nor any rules adopted under it apply 32952  
to single-family residential premises; to infectious wastes 32953  
generated by individuals for purposes of their own care or 32954  
treatment that are disposed of with solid wastes from the 32955  
individual's residence; to the temporary storage of solid wastes, 32956  
other than scrap tires, prior to their collection for disposal; to 32957  
the storage of one hundred or fewer scrap tires unless they are 32958  
stored in such a manner that, in the judgment of the director or 32959  
the board of health of the health district in which the scrap 32960  
tires are stored, the storage causes a nuisance, a hazard to 32961  
public health or safety, or a fire hazard; or to the collection of 32962  
solid wastes, other than scrap tires, by a political subdivision 32963  
or a person holding a franchise or license from a political 32964

subdivision of the state; to composting, as defined in section 32965  
1511.01 of the Revised Code, conducted in accordance with section 32966  
1511.022 of the Revised Code; or to any person who is licensed to 32967  
transport raw rendering material to a compost facility pursuant to 32968  
section 953.23 of the Revised Code. 32969

(E)(1) As used in this division and section 3734.18 of the 32970  
Revised Code: 32971

(a) "On-site facility" means a facility that stores, treats, 32972  
or disposes of hazardous waste that is generated on the premises 32973  
of the facility. 32974

(b) "Off-site facility" means a facility that stores, treats, 32975  
or disposes of hazardous waste that is generated off the premises 32976  
of the facility and includes such a facility that is also an 32977  
on-site facility. 32978

(c) "Satellite facility" means any of the following: 32979

(i) An on-site facility that also receives hazardous waste 32980  
from other premises owned by the same person who generates the 32981  
waste on the facility premises; 32982

(ii) An off-site facility operated so that all of the 32983  
hazardous waste it receives is generated on one or more premises 32984  
owned by the person who owns the facility; 32985

(iii) An on-site facility that also receives hazardous waste 32986  
that is transported uninterruptedly and directly to the facility 32987  
through a pipeline from a generator who is not the owner of the 32988  
facility. 32989

(2) Except as provided in division (E)(3) of this section, no 32990  
person shall establish or operate a hazardous waste facility, or 32991  
use a solid waste facility for the storage, treatment, or disposal 32992  
of any hazardous waste, without a hazardous waste facility 32993  
installation and operation permit ~~from the hazardous waste~~ 32994

~~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	33028
Disposal facility using:			33029
Deep well injection	On-site and satellite	15,000	33030
	Off-site	25,000	33031
Landfill	On-site and satellite	25,000	33032
	Off-site	40,000	33033
Land application	On-site and satellite	2,500	33034
	Off-site	5,000	33035
Surface impoundment	On-site and satellite	10,000	33036
	Off-site	20,000	33037
Treatment facility using:			33038
Tanks	On-site, off-site, and		33039
	satellite	700	33040
Surface impoundment	On-site and satellite	8,000	33041
	Off-site	10,000	33042
Incinerator	On-site and satellite	5,000	33043
	Off-site	<u>10,000</u>	33044
Other forms			33045
of treatment	On-site, off-site, and		33046
	satellite	1,000	33047

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 33060  
bears the same relationship to the total fee that the number of 33061  
days remaining until the next anniversary date at which payment of 33062  
the annual permit fee is due bears to three hundred sixty-five. 33063

The director, by rules adopted in accordance with Chapters 33064  
119. and 3745. of the Revised Code, shall prescribe procedures for 33065  
collecting the annual permit fee established by this division and 33066  
may prescribe other requirements necessary to carry out this 33067  
division. 33068

(3) The prohibition against establishing or operating a 33069  
hazardous waste facility without a hazardous waste facility 33070  
installation and operation permit ~~from the board~~ does not apply to 33071  
either of the following: 33072

(a) A facility that is operating in accordance with a permit 33073  
renewal issued under division (H) of section 3734.05 of the 33074  
Revised Code, a revision issued under division (I) of that section 33075  
as it existed prior to August 20, 1996, or a modification issued 33076  
by the director under division (I) of that section on and after 33077  
August 20, 1996; 33078

(b) Except as provided in division (J) of section 3734.05 of 33079  
the Revised Code, a facility that will operate or is operating in 33080  
accordance with a permit by rule, or that is not subject to permit 33081  
requirements, under rules adopted by the director. In accordance 33082  
with Chapter 119. of the Revised Code, the director shall adopt, 33083  
and subsequently may amend, suspend, or rescind, rules for the 33084  
purposes of division (E)(3)(b) of this section. Any rules so 33085  
adopted shall be consistent with and equivalent to regulations 33086  
pertaining to interim status adopted under the "Resource 33087  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 33088  
6921, as amended, except as otherwise provided in this chapter. 33089

If a modification is requested or proposed for a facility 33090

described in division (E)(3)(a) or (b) of this section, division 33091  
(I)~~(8)~~(7) of section 3734.05 of the Revised Code applies. 33092

(F) No person shall store, treat, or dispose of hazardous 33093  
waste identified or listed under this chapter and rules adopted 33094  
under it, regardless of whether generated on or off the premises 33095  
where the waste is stored, treated, or disposed of, or transport 33096  
or cause to be transported any hazardous waste identified or 33097  
listed under this chapter and rules adopted under it to any other 33098  
premises, except at or to any of the following: 33099

(1) A hazardous waste facility operating under a permit 33100  
issued in accordance with this chapter; 33101

(2) A facility in another state operating under a license or 33102  
permit issued in accordance with the "Resource Conservation and 33103  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 33104  
amended; 33105

(3) A facility in another nation operating in accordance with 33106  
the laws of that nation; 33107

(4) A facility holding a permit issued pursuant to Title I of 33108  
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 33109  
Stat. 1052, 33 U.S.C.A. 1401, as amended; 33110

(5) A hazardous waste facility as described in division 33111  
(E)(3)(a) or (b) of this section. 33112

(G) The director, by order, may exempt any person generating, 33113  
collecting, storing, treating, disposing of, or transporting solid 33114  
wastes or hazardous waste, or processing solid wastes that consist 33115  
of scrap tires, in such quantities or under such circumstances 33116  
that, in the determination of the director, are unlikely to 33117  
adversely affect the public health or safety or the environment 33118  
from any requirement to obtain a registration certificate, permit, 33119  
or license or comply with the manifest system or other 33120  
requirements of this chapter. Such an exemption shall be 33121

consistent with and equivalent to any regulations adopted by the 33122  
administrator of the United States environmental protection agency 33123  
under the "Resource Conservation and Recovery Act of 1976," 90 33124  
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 33125  
provided in this chapter. 33126

(H) No person shall engage in filling, grading, excavating, 33127  
building, drilling, or mining on land where a hazardous waste 33128  
facility, or a solid waste facility, was operated without prior 33129  
authorization from the director, who shall establish the procedure 33130  
for granting such authorization by rules adopted in accordance 33131  
with Chapter 119. of the Revised Code. 33132

A public utility that has main or distribution lines above or 33133  
below the land surface located on an easement or right-of-way 33134  
across land where a solid waste facility was operated may engage 33135  
in any such activity within the easement or right-of-way without 33136  
prior authorization from the director for purposes of performing 33137  
emergency repair or emergency replacement of its lines; of the 33138  
poles, towers, foundations, or other structures supporting or 33139  
sustaining any such lines; or of the appurtenances to those 33140  
structures, necessary to restore or maintain existing public 33141  
utility service. A public utility may enter upon any such easement 33142  
or right-of-way without prior authorization from the director for 33143  
purposes of performing necessary or routine maintenance of those 33144  
portions of its existing lines; of the existing poles, towers, 33145  
foundations, or other structures sustaining or supporting its 33146  
lines; or of the appurtenances to any such supporting or 33147  
sustaining structure, located on or above the land surface on any 33148  
such easement or right-of-way. Within twenty-four hours after 33149  
commencing any such emergency repair, replacement, or maintenance 33150  
work, the public utility shall notify the director or the 33151  
director's authorized representative of those activities and shall 33152  
provide such information regarding those activities as the 33153

director or the director's representative may request. Upon 33154  
completion of the emergency repair, replacement, or maintenance 33155  
activities, the public utility shall restore any land of the solid 33156  
waste facility disturbed by those activities to the condition 33157  
existing prior to the commencement of those activities. 33158

(I) No owner or operator of a hazardous waste facility, in 33159  
the operation of the facility, shall cause, permit, or allow the 33160  
emission therefrom of any particulate matter, dust, fumes, gas, 33161  
mist, smoke, vapor, or odorous substance that, in the opinion of 33162  
the director, unreasonably interferes with the comfortable 33163  
enjoyment of life or property by persons living or working in the 33164  
vicinity of the facility, or that is injurious to public health. 33165  
Any such action is hereby declared to be a public nuisance. 33166

(J) Notwithstanding any other provision of this chapter, in 33167  
the event the director finds an imminent and substantial danger to 33168  
public health or safety or the environment that creates an 33169  
emergency situation requiring the immediate treatment, storage, or 33170  
disposal of hazardous waste, the director may issue a temporary 33171  
emergency permit to allow the treatment, storage, or disposal of 33172  
the hazardous waste at a facility that is not otherwise authorized 33173  
by a hazardous waste facility installation and operation permit to 33174  
treat, store, or dispose of the waste. The emergency permit shall 33175  
not exceed ninety days in duration and shall not be renewed. The 33176  
director shall adopt, and may amend, suspend, or rescind, rules in 33177  
accordance with Chapter 119. of the Revised Code governing the 33178  
issuance, modification, revocation, and denial of emergency 33179  
permits. 33180

(K) No owner or operator of a sanitary landfill shall 33181  
knowingly accept for disposal, or dispose of, any infectious 33182  
wastes, other than those subject to division (A)(1)(c) of section 33183  
3734.021 of the Revised Code, that have not been treated to render 33184  
them noninfectious. For the purposes of this division, 33185

certification by the owner or operator of the treatment facility 33186  
where the wastes were treated on the shipping paper required by 33187  
rules adopted under division (D)(2) of that section creates a 33188  
rebuttable presumption that the wastes have been so treated. 33189

(L) The director, in accordance with Chapter 119. of the 33190  
Revised Code, shall adopt, and may amend, suspend, or rescind, 33191  
rules having uniform application throughout the state establishing 33192  
a training and certification program that shall be required for 33193  
employees of boards of health who are responsible for enforcing 33194  
the solid waste and infectious waste provisions of this chapter 33195  
and rules adopted under them and for persons who are responsible 33196  
for the operation of solid waste facilities or infectious waste 33197  
treatment facilities. The rules shall provide all of the 33198  
following, without limitation: 33199

(1) The program shall be administered by the director and 33200  
shall consist of a course on new solid waste and infectious waste 33201  
technologies, enforcement procedures, and rules; 33202

(2) The course shall be offered on an annual basis; 33203

(3) Those persons who are required to take the course under 33204  
division (L) of this section shall do so triennially; 33205

(4) Persons who successfully complete the course shall be 33206  
certified by the director; 33207

(5) Certification shall be required for all employees of 33208  
boards of health who are responsible for enforcing the solid waste 33209  
or infectious waste provisions of this chapter and rules adopted 33210  
under them and for all persons who are responsible for the 33211  
operation of solid waste facilities or infectious waste treatment 33212  
facilities; 33213

(6)(a) All employees of a board of health who, on the 33214  
effective date of the rules adopted under this division, are 33215  
responsible for enforcing the solid waste or infectious waste 33216

provisions of this chapter and the rules adopted under them shall 33217  
complete the course and be certified by the director not later 33218  
than January 1, 1995; 33219

(b) All employees of a board of health who, after the 33220  
effective date of the rules adopted under division (L) of this 33221  
section, become responsible for enforcing the solid waste or 33222  
infectious waste provisions of this chapter and rules adopted 33223  
under them and who do not hold a current and valid certification 33224  
from the director at that time shall complete the course and be 33225  
certified by the director within two years after becoming 33226  
responsible for performing those activities. 33227

No person shall fail to obtain the certification required 33228  
under this division. 33229

(M) The director shall not issue a permit under section 33230  
3734.05 of the Revised Code to establish a solid waste facility, 33231  
or to modify a solid waste facility operating on December 21, 33232  
1988, in a manner that expands the disposal capacity or geographic 33233  
area covered by the facility, that is or is to be located within 33234  
the boundaries of a state park established or dedicated under 33235  
Chapter 1541. of the Revised Code, a state park purchase area 33236  
established under section 1541.02 of the Revised Code, any unit of 33237  
the national park system, or any property that lies within the 33238  
boundaries of a national park or recreation area, but that has not 33239  
been acquired or is not administered by the secretary of the 33240  
United States department of the interior, located in this state, 33241  
or any candidate area located in this state and identified for 33242  
potential inclusion in the national park system in the edition of 33243  
the "national park system plan" submitted under paragraph (b) of 33244  
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 33245  
U.S.C.A. 1a-5, as amended, current at the time of filing of the 33246  
application for the permit, unless the facility or proposed 33247  
facility is or is to be used exclusively for the disposal of solid 33248

wastes generated within the park or recreation area and the 33249  
director determines that the facility or proposed facility will 33250  
not degrade any of the natural or cultural resources of the park 33251  
or recreation area. The director shall not issue a variance under 33252  
division (A) of this section and rules adopted under it, or issue 33253  
an exemption order under division (G) of this section, that would 33254  
authorize any such establishment or expansion of a solid waste 33255  
facility within the boundaries of any such park or recreation 33256  
area, state park purchase area, or candidate area, other than a 33257  
solid waste facility exclusively for the disposal of solid wastes 33258  
generated within the park or recreation area when the director 33259  
determines that the facility will not degrade any of the natural 33260  
or cultural resources of the park or recreation area. 33261

(N)(1) The rules adopted under division (A) of this section, 33262  
other than those governing variances, do not apply to scrap tire 33263  
collection, storage, monocell, monofill, and recovery facilities. 33264  
Those facilities are subject to and governed by rules adopted 33265  
under sections 3734.70 to 3734.73 of the Revised Code, as 33266  
applicable. 33267

(2) Division (C) of this section does not apply to scrap tire 33268  
collection, storage, monocell, monofill, and recovery facilities. 33269  
The establishment and modification of those facilities are subject 33270  
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 33271  
Code, as applicable. 33272

(3) The director may adopt, amend, suspend, or rescind rules 33273  
under division (A) of this section creating an alternative system 33274  
for authorizing the establishment, operation, or modification of a 33275  
solid waste compost facility in lieu of the requirement that a 33276  
person seeking to establish, operate, or modify a solid waste 33277  
compost facility apply for and receive a permit under division (C) 33278  
of this section and section 3734.05 of the Revised Code and a 33279  
license under division (A)(1) of that section. The rules may 33280

include requirements governing, without limitation, the 33281  
classification of solid waste compost facilities, the submittal of 33282  
operating records for solid waste compost facilities, and the 33283  
creation of a registration or notification system in lieu of the 33284  
issuance of permits and licenses for solid waste compost 33285  
facilities. The rules shall specify the applicability of divisions 33286  
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 33287  
Code to a solid waste compost facility. 33288

**Sec. 3734.05.** (A)(1) Except as provided in divisions (A)(4), 33289  
(8), and (9) of this section, no person shall operate or maintain 33290  
a solid waste facility without a license issued under this 33291  
division by the board of health of the health district in which 33292  
the facility is located or by the director of environmental 33293  
protection when the health district in which the facility is 33294  
located is not on the approved list under section 3734.08 of the 33295  
Revised Code. 33296

During the month of December, but before the first day of 33297  
January of the next year, every person proposing to continue to 33298  
operate an existing solid waste facility shall procure a license 33299  
under this division to operate the facility for that year from the 33300  
board of health of the health district in which the facility is 33301  
located or, if the health district is not on the approved list 33302  
under section 3734.08 of the Revised Code, from the director. The 33303  
application for such a license shall be submitted to the board of 33304  
health or to the director, as appropriate, on or before the last 33305  
day of September of the year preceding that for which the license 33306  
is sought. In addition to the application fee prescribed in 33307  
division (A)(2) of this section, a person who submits an 33308  
application after that date shall pay an additional ten per cent 33309  
of the amount of the application fee for each week that the 33310  
application is late. Late payment fees accompanying an application 33311  
submitted to the board of health shall be credited to the special 33312

fund of the health district created in division (B) of section 33313  
3734.06 of the Revised Code, and late payment fees accompanying an 33314  
application submitted to the director shall be credited to the 33315  
general revenue fund. A person who has received a license, upon 33316  
sale or disposition of a solid waste facility, and upon consent of 33317  
the board of health and the director, may have the license 33318  
transferred to another person. The board of health or the director 33319  
may include such terms and conditions in a license or revision to 33320  
a license as are appropriate to ensure compliance with this 33321  
chapter and rules adopted under it. The terms and conditions may 33322  
establish the authorized maximum daily waste receipts for the 33323  
facility. Limitations on maximum daily waste receipts shall be 33324  
specified in cubic yards of volume for the purpose of regulating 33325  
the design, construction, and operation of solid waste facilities. 33326  
Terms and conditions included in a license or revision to a 33327  
license by a board of health shall be consistent with, and pertain 33328  
only to the subjects addressed in, the rules adopted under 33329  
division (A) of section 3734.02 and division (D) of section 33330  
3734.12 of the Revised Code. 33331

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 33332  
(9) of this section, each person proposing to open a new solid 33333  
waste facility or to modify an existing solid waste facility shall 33334  
submit an application for a permit with accompanying detail plans 33335  
and specifications to the environmental protection agency for 33336  
required approval under the rules adopted by the director pursuant 33337  
to division (A) of section 3734.02 of the Revised Code and 33338  
applicable rules adopted under division (D) of section 3734.12 of 33339  
the Revised Code at least two hundred seventy days before proposed 33340  
operation of the facility and shall concurrently make application 33341  
for the issuance of a license under division (A)(1) of this 33342  
section with the board of health of the health district in which 33343  
the proposed facility is to be located. 33344

(b) On and after the effective date of the rules adopted 33345  
under division (A) of section 3734.02 of the Revised Code and 33346  
division (D) of section 3734.12 of the Revised Code governing 33347  
solid waste transfer facilities, each person proposing to open a 33348  
new solid waste transfer facility or to modify an existing solid 33349  
waste transfer facility shall submit an application for a permit 33350  
with accompanying engineering detail plans, specifications, and 33351  
information regarding the facility and its method of operation to 33352  
the environmental protection agency for required approval under 33353  
those rules at least two hundred seventy days before commencing 33354  
proposed operation of the facility and concurrently shall make 33355  
application for the issuance of a license under division (A)(1) of 33356  
this section with the board of health of the health district in 33357  
which the facility is located or proposed. 33358

(c) Each application for a permit under division (A)(2)(a) or 33359  
(b) of this section shall be accompanied by a nonrefundable 33360  
application fee of four hundred dollars that shall be credited to 33361  
the general revenue fund. Each application for an annual license 33362  
under division (A)(1) or (2) of this section shall be accompanied 33363  
by a nonrefundable application fee of one hundred dollars. If the 33364  
application for an annual license is submitted to a board of 33365  
health on the approved list under section 3734.08 of the Revised 33366  
Code, the application fee shall be credited to the special fund of 33367  
the health district created in division (B) of section 3734.06 of 33368  
the Revised Code. If the application for an annual license is 33369  
submitted to the director, the application fee shall be credited 33370  
to the general revenue fund. If a permit or license is issued, the 33371  
amount of the application fee paid shall be deducted from the 33372  
amount of the permit fee due under division (Q) of section 3745.11 33373  
of the Revised Code or the amount of the license fee due under 33374  
division (A)(1), (2), (3), or (4) of section 3734.06 of the 33375  
Revised Code. 33376

(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 33408  
chief executive officer of each municipal corporation, in which 33409  
the facility is or is proposed to be located. At the public 33410  
meeting, the applicant shall provide information and describe the 33411  
application and respond to comments or questions concerning the 33412  
application, and the officer or employee of the agency shall 33413  
describe the permit application process. At the public meeting, 33414  
any person may submit written or oral comments on or objections to 33415  
the application. Not more than thirty days after the public 33416  
meeting, the applicant shall provide the director with a copy of a 33417  
transcript of the full meeting, copies of any exhibits, displays, 33418  
or other materials presented by the applicant at the meeting, and 33419  
the original copy of any written comments submitted at the 33420  
meeting. 33421

(e) Except as provided in division (A)(2)(f) of this section, 33422  
prior to taking an action, other than a proposed or final denial, 33423  
upon an application submitted under division (A)(2)(a) of this 33424  
section for a permit to open a new or modify an existing solid 33425  
waste facility, the director shall hold a public information 33426  
session and a public hearing on the application within the county 33427  
in which the new or modified solid waste facility is or is 33428  
proposed to be located or within a contiguous county. If the 33429  
application is for a permit to open a new solid waste facility, 33430  
the director shall hold the hearing not less than fourteen days 33431  
after the information session. If the application is for a permit 33432  
to modify an existing solid waste facility, the director may hold 33433  
both the information session and the hearing on the same day 33434  
unless any individual affected by the application requests in 33435  
writing that the information session and the hearing not be held 33436  
on the same day, in which case the director shall hold the hearing 33437  
not less than fourteen days after the information session. The 33438  
director shall publish notice of the public information session or 33439  
public hearing not less than thirty days before holding the 33440

information session or hearing, as applicable. The notice shall be 33441  
published in each newspaper of general circulation that is 33442  
published in the county in which the facility is or is proposed to 33443  
be located. If no newspaper of general circulation is published in 33444  
the county, the director shall publish the notice in a newspaper 33445  
of general circulation in the county. The notice shall contain the 33446  
date, time, and location of the information session or hearing, as 33447  
applicable, and a general description of the proposed new or 33448  
modified facility. At the public information session, an officer 33449  
or employee of the environmental protection agency shall describe 33450  
the status of the permit application and be available to respond 33451  
to comments or questions concerning the application. At the public 33452  
hearing, any person may submit written or oral comments on or 33453  
objections to the approval of the application. The applicant, or a 33454  
representative of the applicant who has knowledge of the location, 33455  
construction, and operation of the facility, shall attend the 33456  
information session and public hearing to respond to comments or 33457  
questions concerning the facility directed to the applicant or 33458  
representative by the officer or employee of the environmental 33459  
protection agency presiding at the information session and 33460  
hearing. 33461

(f) The solid waste management policy committee of a county 33462  
or joint solid waste management district may adopt a resolution 33463  
requesting expeditious consideration of a specific application 33464  
submitted under division (A)(2)(a) of this section for a permit to 33465  
modify an existing solid waste facility within the district. The 33466  
resolution shall make the finding that expedited consideration of 33467  
the application without the public information session and public 33468  
hearing under division (A)(2)(e) of this section is in the public 33469  
interest and will not endanger human health, as determined by the 33470  
director by rules adopted in accordance with Chapter 119. of the 33471  
Revised Code. Upon receiving such a resolution, the director, at 33472  
the director's discretion, may issue a final action upon the 33473

application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section. 33474  
33475

(3) Except as provided in division (A)(10) of this section, 33476  
and unless the owner or operator of any solid waste facility, 33477  
other than a solid waste transfer facility or a compost facility 33478  
that accepts exclusively source separated yard wastes, that 33479  
commenced operation on or before July 1, 1968, has obtained an 33480  
exemption from the requirements of division (A)(3) of this section 33481  
in accordance with division (G) of section 3734.02 of the Revised 33482  
Code, the owner or operator shall submit to the director an 33483  
application for a permit with accompanying engineering detail 33484  
plans, specifications, and information regarding the facility and 33485  
its method of operation for approval under rules adopted under 33486  
division (A) of section 3734.02 of the Revised Code and applicable 33487  
rules adopted under division (D) of section 3734.12 of the Revised 33488  
Code in accordance with the following schedule: 33489

(a) Not later than September 24, 1988, if the facility is 33490  
located in the city of Garfield Heights or Parma in Cuyahoga 33491  
county; 33492

(b) Not later than December 24, 1988, if the facility is 33493  
located in Delaware, Greene, Guernsey, Hamilton, Madison, 33494  
Mahoning, Ottawa, or Vinton county; 33495

(c) Not later than March 24, 1989, if the facility is located 33496  
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 33497  
Washington county, or is located in the city of Brooklyn or 33498  
Cuyahoga Heights in Cuyahoga county; 33499

(d) Not later than June 24, 1989, if the facility is located 33500  
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 33501  
Summit county or is located in Cuyahoga county outside the cities 33502  
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 33503

(e) Not later than September 24, 1989, if the facility is 33504

located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 33505  
county; 33506

(f) Not later than December 24, 1989, if the facility is 33507  
located in a county not listed in divisions (A)(3)(a) to (e) of 33508  
this section; 33509

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 33510  
section, not later than December 31, 1990, if the facility is a 33511  
solid waste facility owned by a generator of solid wastes when the 33512  
solid waste facility exclusively disposes of solid wastes 33513  
generated at one or more premises owned by the generator 33514  
regardless of whether the facility is located on a premises where 33515  
the wastes are generated and if the facility disposes of more than 33516  
one hundred thousand tons of solid wastes per year, provided that 33517  
any such facility shall be subject to division (A)(5) of this 33518  
section. 33519

(4) Except as provided in divisions (A)(8), (9), and (10) of 33520  
this section, unless the owner or operator of any solid waste 33521  
facility for which a permit was issued after July 1, 1968, but 33522  
before January 1, 1980, has obtained an exemption from the 33523  
requirements of division (A)(4) of this section under division (G) 33524  
of section 3734.02 of the Revised Code, the owner or operator 33525  
shall submit to the director an application for a permit with 33526  
accompanying engineering detail plans, specifications, and 33527  
information regarding the facility and its method of operation for 33528  
approval under those rules. 33529

(5) The director may issue an order in accordance with 33530  
Chapter 3745. of the Revised Code to the owner or operator of a 33531  
solid waste facility requiring the person to submit to the 33532  
director updated engineering detail plans, specifications, and 33533  
information regarding the facility and its method of operation for 33534  
approval under rules adopted under division (A) of section 3734.02 33535  
of the Revised Code and applicable rules adopted under division 33536

(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, 33570  
allow methane gas migration to occur, or cause or contribute to 33571  
any other type of environmental damage. 33572

If an emergency need for disposal capacity that may affect 33573  
public health and safety exists as a result of closure of a 33574  
facility under division (A)(6) of this section, the director may 33575  
issue an order designating another solid waste facility to accept 33576  
the wastes that would have been disposed of at the facility to be 33577  
closed. 33578

(7) If the director determines that standards more stringent 33579  
than those applicable in rules adopted under division (A) of 33580  
section 3734.02 of the Revised Code and division (D) of section 33581  
3734.12 of the Revised Code, or standards pertaining to subjects 33582  
not specifically addressed by those rules, are necessary to ensure 33583  
that a solid waste facility constructed at the proposed location 33584  
will not cause a nuisance, cause or contribute to water pollution, 33585  
or endanger public health or safety, the director may issue a 33586  
permit for the facility with such terms and conditions as the 33587  
director finds necessary to protect public health and safety and 33588  
the environment. If a permit is issued, the director shall state 33589  
in the order issuing it the specific findings supporting each such 33590  
term or condition. 33591

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 33592  
not apply to a solid waste compost facility that accepts 33593  
exclusively source separated yard wastes and that is registered 33594  
under division (C) of section 3734.02 of the Revised Code or, 33595  
unless otherwise provided in rules adopted under division (N)(3) 33596  
of section 3734.02 of the Revised Code, to a solid waste compost 33597  
facility if the director has adopted rules establishing an 33598  
alternative system for authorizing the establishment, operation, 33599  
or modification of a solid waste compost facility under that 33600  
division. 33601

(9) Divisions (A)(1) to (7) of this section do not apply to 33602  
scrap tire collection, storage, monocell, monofill, and recovery 33603  
facilities. The approval of plans and specifications, as 33604  
applicable, and the issuance of registration certificates, 33605  
permits, and licenses for those facilities are subject to sections 33606  
3734.75 to 3734.78 of the Revised Code, as applicable, and section 33607  
3734.81 of the Revised Code. 33608

(10) Divisions (A)(3) and (4) of this section do not apply to 33609  
a solid waste incinerator that was placed into operation on or 33610  
before October 12, 1994, and that is not authorized to accept and 33611  
treat infectious wastes pursuant to division (B) of this section. 33612

(B)(1) Each person who is engaged in the business of treating 33613  
infectious wastes for profit at a treatment facility located off 33614  
the premises where the wastes are generated that is in operation 33615  
on August 10, 1988, and who proposes to continue operating the 33616  
facility shall submit to the board of health of the health 33617  
district in which the facility is located an application for a 33618  
license to operate the facility. 33619

Thereafter, no person shall operate or maintain an infectious 33620  
waste treatment facility without a license issued by the board of 33621  
health of the health district in which the facility is located or 33622  
by the director when the health district in which the facility is 33623  
located is not on the approved list under section 3734.08 of the 33624  
Revised Code. 33625

(2)(a) During the month of December, but before the first day 33626  
of January of the next year, every person proposing to continue to 33627  
operate an existing infectious waste treatment facility shall 33628  
procure a license to operate the facility for that year from the 33629  
board of health of the health district in which the facility is 33630  
located or, if the health district is not on the approved list 33631  
under section 3734.08 of the Revised Code, from the director. The 33632

application for such a license shall be submitted to the board of 33633  
health or to the director, as appropriate, on or before the last 33634  
day of September of the year preceding that for which the license 33635  
is sought. In addition to the application fee prescribed in 33636  
division (B)(2)(c) of this section, a person who submits an 33637  
application after that date shall pay an additional ten per cent 33638  
of the amount of the application fee for each week that the 33639  
application is late. Late payment fees accompanying an application 33640  
submitted to the board of health shall be credited to the special 33641  
infectious waste fund of the health district created in division 33642  
(C) of section 3734.06 of the Revised Code, and late payment fees 33643  
accompanying an application submitted to the director shall be 33644  
credited to the general revenue fund. A person who has received a 33645  
license, upon sale or disposition of an infectious waste treatment 33646  
facility and upon consent of the board of health and the director, 33647  
may have the license transferred to another person. The board of 33648  
health or the director may include such terms and conditions in a 33649  
license or revision to a license as are appropriate to ensure 33650  
compliance with the infectious waste provisions of this chapter 33651  
and rules adopted under them. 33652

(b) Each person proposing to open a new infectious waste 33653  
treatment facility or to modify an existing infectious waste 33654  
treatment facility shall submit an application for a permit with 33655  
accompanying detail plans and specifications to the environmental 33656  
protection agency for required approval under the rules adopted by 33657  
the director pursuant to section 3734.021 of the Revised Code two 33658  
hundred seventy days before proposed operation of the facility and 33659  
concurrently shall make application for a license with the board 33660  
of health of the health district in which the facility is or is 33661  
proposed to be located. Not later than ninety days after receiving 33662  
a completed application under division (B)(2)(b) of this section 33663  
for a permit to open a new infectious waste treatment facility or 33664  
modify an existing infectious waste treatment facility to expand 33665

its treatment capacity, or receiving a completed application under 33666  
division (A)(2)(a) of this section for a permit to open a new 33667  
solid waste incineration facility, or modify an existing solid 33668  
waste incineration facility to also treat infectious wastes or to 33669  
increase its infectious waste treatment capacity, that pertains to 33670  
a facility for which a notation authorizing infectious waste 33671  
treatment is included or proposed to be included in the solid 33672  
waste incineration facility's license pursuant to division (B)(3) 33673  
of this section, the director shall hold a public hearing on the 33674  
application within the county in which the new or modified 33675  
infectious waste or solid waste facility is or is proposed to be 33676  
located or within a contiguous county. Not less than thirty days 33677  
before holding the public hearing on the application, the director 33678  
shall publish notice of the hearing in each newspaper that has 33679  
general circulation and that is published in the county in which 33680  
the facility is or is proposed to be located. If there is no 33681  
newspaper that has general circulation and that is published in 33682  
the county, the director shall publish the notice in a newspaper 33683  
of general circulation in the county. The notice shall contain the 33684  
date, time, and location of the public hearing and a general 33685  
description of the proposed new or modified facility. At the 33686  
public hearing, any person may submit written or oral comments on 33687  
or objections to the approval or disapproval of the application. 33688  
The applicant, or a representative of the applicant who has 33689  
knowledge of the location, construction, and operation of the 33690  
facility, shall attend the public hearing to respond to comments 33691  
or questions concerning the facility directed to the applicant or 33692  
representative by the officer or employee of the environmental 33693  
protection agency presiding at the hearing. 33694

(c) Each application for a permit under division (B)(2)(b) of 33695  
this section shall be accompanied by a nonrefundable application 33696  
fee of four hundred dollars that shall be credited to the general 33697  
revenue fund. Each application for an annual license under 33698

division (B)(2)(a) of this section shall be accompanied by a 33699  
nonrefundable application fee of one hundred dollars. If the 33700  
application for an annual license is submitted to a board of 33701  
health on the approved list under section 3734.08 of the Revised 33702  
Code, the application fee shall be credited to the special 33703  
infectious waste fund of the health district created in division 33704  
(C) of section 3734.06 of the Revised Code. If the application for 33705  
an annual license is submitted to the director, the application 33706  
fee shall be credited to the general revenue fund. If a permit or 33707  
license is issued, the amount of the application fee paid shall be 33708  
deducted from the amount of the permit fee due under division (Q) 33709  
of section 3745.11 of the Revised Code or the amount of the 33710  
license fee due under division (C) of section 3734.06 of the 33711  
Revised Code. 33712

(d) The owner or operator of any infectious waste treatment 33713  
facility that commenced operation on or before July 1, 1968, shall 33714  
submit to the director an application for a permit with 33715  
accompanying engineering detail plans, specifications, and 33716  
information regarding the facility and its method of operation for 33717  
approval under rules adopted under section 3734.021 of the Revised 33718  
Code in accordance with the following schedule: 33719

(i) Not later than December 24, 1988, if the facility is 33720  
located in Delaware, Greene, Guernsey, Hamilton, Madison, 33721  
Mahoning, Ottawa, or Vinton county; 33722

(ii) Not later than March 24, 1989, if the facility is 33723  
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 33724  
or Washington county, or is located in the city of Brooklyn, 33725  
Cuyahoga Heights, or Parma in Cuyahoga county; 33726

(iii) Not later than June 24, 1989, if the facility is 33727  
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 33728  
Lucas, or Summit county or is located in Cuyahoga county outside 33729  
the cities of Brooklyn, Cuyahoga Heights, and Parma; 33730

(iv) Not later than September 24, 1989, if the facility is 33731  
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 33732  
county; 33733

(v) Not later than December 24, 1989, if the facility is 33734  
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 33735  
of this section. 33736

The owner or operator of an infectious waste treatment 33737  
facility required to submit a permit application under division 33738  
(B)(2)(d) of this section is not required to pay any permit 33739  
application fee under division (B)(2)(c) of this section, or 33740  
permit fee under division (Q) of section 3745.11 of the Revised 33741  
Code, with respect thereto unless the owner or operator also 33742  
proposes to modify the facility. 33743

(e) The director may issue an order in accordance with 33744  
Chapter 3745. of the Revised Code to the owner or operator of an 33745  
infectious waste treatment facility requiring the person to submit 33746  
to the director updated engineering detail plans, specifications, 33747  
and information regarding the facility and its method of operation 33748  
for approval under rules adopted under section 3734.021 of the 33749  
Revised Code if, in the director's judgment, conditions at the 33750  
facility constitute a substantial threat to public health or 33751  
safety or are causing or contributing to or threatening to cause 33752  
or contribute to air or water pollution or soil contamination. Any 33753  
person who receives such an order shall submit the updated 33754  
engineering detail plans, specifications, and information to the 33755  
director within one hundred eighty days after the effective date 33756  
of the order. 33757

(f) The director shall act upon an application submitted 33758  
under division (B)(2)(d) of this section and any updated 33759  
engineering plans, specifications, and information submitted under 33760  
division (B)(2)(e) of this section within one hundred eighty days 33761

after receiving them. If the director denies any such permit 33762  
application or disapproves any such updated engineering plans, 33763  
specifications, and information, the director shall include in the 33764  
order denying the application or disapproving the plans the 33765  
requirement that the owner or operator cease accepting infectious 33766  
wastes for treatment at the facility. 33767

(3) Division (B) of this section does not apply to an 33768  
infectious waste treatment facility that meets any of the 33769  
following conditions: 33770

(a) Is owned or operated by the generator of the wastes and 33771  
exclusively treats, by methods, techniques, and practices 33772  
established by rules adopted under division (C)(1) or (3) of 33773  
section 3734.021 of the Revised Code, wastes that are generated at 33774  
any premises owned or operated by that generator regardless of 33775  
whether the wastes are generated on the same premises where the 33776  
generator's treatment facility is located or, if the generator is 33777  
a hospital as defined in section 3727.01 of the Revised Code, 33778  
infectious wastes that are described in division (A)(1)(g), (h), 33779  
or (i) of section 3734.021 of the Revised Code; 33780

(b) Holds a license or renewal of a license to operate a 33781  
crematory facility issued under Chapter 4717. and a permit issued 33782  
under Chapter 3704. of the Revised Code; 33783

(c) Treats or disposes of dead animals or parts thereof, or 33784  
the blood of animals, and is subject to any of the following: 33785

(i) Inspection under the "Federal Meat Inspection Act," 81 33786  
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 33787

(ii) Chapter 918. of the Revised Code; 33788

(iii) Chapter 953. of the Revised Code. 33789

Nothing in division (B) of this section requires a facility 33790  
that holds a license issued under division (A) of this section as 33791

a solid waste facility and that also treats infectious wastes by 33792  
the same method, technique, or process to obtain a license under 33793  
division (B) of this section as an infectious waste treatment 33794  
facility. However, the solid waste facility license for the 33795  
facility shall include the notation that the facility also treats 33796  
infectious wastes. 33797

On and after the effective date of the amendments to the 33798  
rules adopted under division (C)(2) of section 3734.021 of the 33799  
Revised Code that are required by Section 6 of Substitute House 33800  
Bill No. 98 of the 120th General Assembly, the director shall not 33801  
issue a permit to open a new solid waste incineration facility 33802  
unless the proposed facility complies with the requirements for 33803  
the location of new infectious waste incineration facilities 33804  
established in the required amendments to those rules. 33805

(C) Except for a facility or activity described in division 33806  
(E)(3) of section 3734.02 of the Revised Code, a person who 33807  
proposes to establish or operate a hazardous waste facility shall 33808  
submit ~~an~~ a complete application for a hazardous waste facility 33809  
installation and operation permit and accompanying detail plans, 33810  
specifications, and such information as the director may require 33811  
to the environmental protection agency, ~~except as provided in~~ 33812  
~~division (E)(2) of this section,~~ at least one hundred eighty days 33813  
before the proposed beginning of operation of the facility. The 33814  
applicant shall notify by certified mail the legislative authority 33815  
of each municipal corporation, township, and county in which the 33816  
facility is proposed to be located of the submission of the 33817  
application within ten days after the submission or at such 33818  
earlier time as the director may establish by rule. If the 33819  
application is for a proposed new hazardous waste disposal or 33820  
thermal treatment facility, the applicant also shall give actual 33821  
notice of the general design and purpose of the facility to the 33822  
legislative authority of each municipal corporation, township, and 33823

county in which the facility is proposed to be located at least 33824  
ninety days before the permit application is submitted to the 33825  
environmental protection agency. 33826

In accordance with rules adopted under section 3734.12 of the 33827  
Revised Code, prior to the submission of a complete application 33828  
for a hazardous waste facility installation and operation permit, 33829  
the applicant shall hold at least one meeting in the township or 33830  
municipal corporation in which the facility is proposed to be 33831  
located, whichever is geographically closer to the proposed 33832  
location of the facility. The meeting shall be open to the public 33833  
and shall be held to inform the community of the proposed 33834  
hazardous waste management activities and to solicit questions 33835  
from the community concerning the activities. 33836

~~(D)(1) There is hereby created the hazardous waste facility 33837  
board, composed of the director of environmental protection who 33838  
shall serve as chairperson, the director of natural resources, and 33839  
the chairperson of the Ohio water development authority, or their 33840  
respective designees, and one chemical engineer and one geologist 33841  
who each shall be employed by a state university as defined in 33842  
section 3345.011 of the Revised Code. The chemical engineer and 33843  
geologist each shall be appointed by the governor, with the advice 33844  
and consent of the senate, for a term of two years. The chemical 33845  
engineer and geologist each shall receive as compensation five 33846  
thousand dollars per year, plus expenses necessarily incurred in 33847  
the performance of their duties. 33848~~

~~The board shall not issue any final order without the consent 33849  
of at least three members. 33850~~

~~(2) The hazardous waste facility board shall do both of the 33851  
following: 33852~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules 33853  
governing procedure to be followed in hearings before the board: 33854~~

~~(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.~~ 33855  
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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:~~ 33861  
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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.~~ 33870  
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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~~ 33880  
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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~~ 33918  
~~shall be made of the hearing and of all testimony and evidence~~ 33919  
~~submitted to the board upon receipt of a complete application for~~ 33920  
~~a hazardous waste facility installation and operation permit under~~ 33921  
~~division (C) of this section, the director shall consider the~~ 33922  
~~application and accompanying information to determine whether the~~ 33923  
~~application complies with agency rules and the requirements of~~ 33924  
~~division (D)(2) of this section. After making a determination, the~~ 33925  
~~director shall issue either a draft permit or a notice of intent~~ 33926  
~~to deny the permit. The director, in accordance with rules adopted~~ 33927  
~~under section 3734.12 of the Revised Code or with rules adopted to~~ 33928  
~~implement Chapter 3745. of the Revised Code, shall provide public~~ 33929  
~~notice of the application and the draft permit or the notice of~~ 33930  
~~intent to deny the permit, provide an opportunity for public~~ 33931  
~~comments, and, if significant interest is shown, schedule a public~~ 33932  
~~meeting in the county in which the facility is proposed to be~~ 33933  
~~located and give public notice of the date, time, and location of~~ 33934  
~~the public meeting in a newspaper of general circulation in that~~ 33935  
~~county.~~ 33936

~~(6)(2)~~ The ~~board~~ director shall not approve an application 33937  
for a hazardous waste facility installation and operation permit 33938  
or an application for a modification under division (I)(3) of this 33939  
section unless ~~it~~ the director finds and determines as follows: 33940

(a) The nature and volume of the waste to be treated, stored, 33941  
or disposed of at the facility; 33942

(b) That the facility complies with the director's hazardous 33943  
waste standards adopted pursuant to section 3734.12 of the Revised 33944  
Code; 33945

(c) That the facility represents the minimum adverse 33946  
environmental impact, considering the state of available 33947  
technology and the nature and economics of various alternatives, 33948  
and other pertinent considerations; 33949

(d) That the facility represents the minimum risk of all of 33950  
the following: 33951

(i) ~~Contamination of ground and surface waters;~~ 33952

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 33953  
methods; 33954

~~(iii)~~ ~~Accident~~ (ii) Release of hazardous waste during 33955  
transportation of hazardous waste to or from the facility; 33956

~~(iv)~~ ~~Impact~~ (iii) Adverse impact on the public health and 33957  
safety; 33958

~~(v)~~ ~~Air pollution;~~ 33959

~~(vi)~~ ~~Soil contamination.~~ 33960

(e) That the facility will comply with this chapter and 33961  
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 33962  
and standards adopted under ~~those chapters~~ them; 33963

(f) That if the owner of the facility, the operator of the 33964  
facility, or any other person in a position with the facility from 33965  
which the person may influence the installation and operation of 33966  
the facility has been involved in any prior activity involving 33967  
transportation, treatment, storage, or disposal of hazardous 33968  
waste, that person has a history of compliance with this chapter 33969  
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 33970  
rules and standards adopted under ~~those chapters~~ them, the 33971  
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 33972  
42 U.S.C.A. 6921, as amended, and all regulations adopted under 33973  
it, and similar laws and rules of other states if any such prior 33974  
operation was located in another state that demonstrates 33975  
sufficient reliability, expertise, and competency to operate a 33976  
hazardous waste facility under the applicable provisions of this 33977  
chapter and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code, 33978  
the applicable rules and standards adopted under ~~those chapters~~ 33979

them, and terms and conditions of a hazardous waste facility 33980  
installation and operation permit, given the potential for harm to 33981  
the public health and safety and the environment that could result 33982  
from the irresponsible operation of the facility~~†~~. For off-site 33983  
facilities, as defined in section 3734.41 of the Revised Code, the 33984  
director may use the investigative reports of the attorney general 33985  
prepared pursuant to section 3734.42 of the Revised Code as a 33986  
basis for making a finding and determination under division 33987  
(D)(2)(f) of this section. 33988

(g) That the active areas within a new hazardous waste 33989  
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 33990  
(e), as amended, or organic waste that is toxic and is listed 33991  
under 40 C.F.R. 261, as amended, is being stored, treated, or 33992  
disposed of and where the aggregate of the storage design capacity 33993  
and the disposal design capacity of all hazardous waste in those 33994  
areas is greater than two hundred fifty thousand gallons, are not 33995  
located or operated within any of the following: 33996

(i) Two thousand feet of any residence, school, hospital, 33997  
jail, or prison; 33998

(ii) Any naturally occurring wetland; 33999

(iii) Any flood hazard area if the applicant cannot show that 34000  
the facility will be designed, constructed, operated, and 34001  
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 34002  
~~procedures will be in effect to remove the waste before flood~~ 34003  
~~waters can reach it.~~ 34004

Division (D)~~(6)~~(2)(g) of this section does not apply to the 34005  
facility of any applicant who demonstrates to the ~~board~~ director 34006  
that the limitations specified in that division are not necessary 34007  
because of the nature or volume of the waste and the manner of 34008  
management applied, the facility will impose no substantial danger 34009  
to the health and safety of persons occupying the structures 34010

listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 34011  
facility is to be located or operated in an area where the 34012  
proposed hazardous waste activities will not be incompatible with 34013  
existing land uses in the area. 34014

(h) That the facility will not be located within the 34015  
boundaries of a state park established or dedicated under Chapter 34016  
1541. of the Revised Code, a state park purchase area established 34017  
under section 1541.02 of the Revised Code, any unit of the 34018  
national park system, or any property that lies within the 34019  
boundaries of a national park or recreation area, but that has not 34020  
been acquired or is not administered by the secretary of the 34021  
United States department of the interior, located in this state, 34022  
or any candidate area located in this state identified for 34023  
potential inclusion in the national park system in the edition of 34024  
the "national park system plan" submitted under paragraph (b) of 34025  
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 34026  
U.S.C.A. 1a-5, as amended, current at the time of filing of the 34027  
application for the permit, unless the facility will be used 34028  
exclusively for the storage of hazardous waste generated within 34029  
the park or recreation area in conjunction with the operation of 34030  
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 34031  
does not apply to the facility of any applicant for modification 34032  
of a permit unless the modification application proposes to 34033  
increase the land area included in the facility or to increase the 34034  
quantity of hazardous waste that will be treated, stored, or 34035  
disposed of at the facility. 34036

~~In rendering a decision upon an application for a hazardous 34037  
waste facility installation and operation permit, the board shall 34038  
issue a written order and opinion, which shall include the 34039  
specific findings of fact and conclusions of law that support the 34040  
board's approval or disapproval of the application. 34041~~

(3) Not later than one hundred eighty days after the end of 34042

the public comment period, the director, without prior hearing, 34043  
shall issue or deny the permit in accordance with Chapter 3745. of 34044  
the Revised Code. If the ~~board~~ director approves an application 34045  
for a hazardous waste facility installation and operation permit, 34046  
~~as a part of its written order, it~~ the director shall issue the 34047  
permit, upon such terms and conditions as the ~~board~~ director finds 34048  
are necessary to ensure the construction and operation of the 34049  
hazardous waste facility in accordance with the standards of this 34050  
section. 34051

~~(7) Any party adversely affected by an order of the hazardous~~ 34052  
~~waste facility board may appeal the order and decision of the~~ 34053  
~~board to the court of appeals of Franklin county. An appellant~~ 34054  
~~shall file with the board a notice of appeal, which shall~~ 34055  
~~designate the order appealed from. A copy of the notice also shall~~ 34056  
~~be filed by the appellant with the court, and a copy shall be sent~~ 34057  
~~by certified mail to each party to the adjudication hearing before~~ 34058  
~~the board. Such notices shall be filed and mailed within thirty~~ 34059  
~~days after the date upon which the appellant received notice from~~ 34060  
~~the board by certified mail of the making of the order appealed~~ 34061  
~~from. No appeal bond shall be required to make an appeal~~ 34062  
~~effective.~~ 34063

~~The filing of a notice of appeal shall not operate~~ 34064  
~~automatically as a suspension of the order of the board. If it~~ 34065  
~~appears to the court that an unjust hardship to the appellant will~~ 34066  
~~result from the execution of the board's order pending~~ 34067  
~~determination of the appeal, the court may grant a suspension of~~ 34068  
~~the order and fix its terms.~~ 34069

~~Within twenty days after receipt of the notice of appeal, the~~ 34070  
~~board shall prepare and file in the court the complete record of~~ 34071  
~~proceedings out of which the appeal arises, including any~~ 34072  
~~transcript of the testimony and any other evidence that has been~~ 34073  
~~submitted before the board. The expense of preparing and~~ 34074

~~transcribing the record shall be taxed as a part of the costs of 34075  
the appeal. The appellant, other than the state or a political 34076  
subdivision, an agency of either, or any officer of the appellant 34077  
acting in the officer's representative capacity, shall provide 34078  
security for costs satisfactory to the court considering the 34079  
respective interests of the parties and the public interest. Upon 34080  
demand by a party, the board shall furnish, at the cost of the 34081  
party requesting it, a copy of the record. If the complete record 34082  
is not filed within the time provided for in this section, any 34083  
party may apply to the court to have the case docketed, and the 34084  
court shall order the record filed. 34085~~

~~In hearing the appeal, the court is confined to the record as 34086  
certified to it by the board. The court may grant a request for 34087  
the admission of additional evidence when satisfied that the 34088  
additional evidence is newly discovered and could not with 34089  
reasonable diligence have been ascertained prior to the hearing 34090  
before the board. 34091~~

~~The court shall affirm the order complained of in the appeal 34092  
if it finds, upon consideration of the entire record and such 34093  
additional evidence as the court has admitted, that the order is 34094  
supported by reliable, probative, and substantial evidence and is 34095  
in accordance with law. In the absence of such findings, it shall 34096  
reverse, vacate, or modify the order or make such other ruling as 34097  
is supported by reliable, probative, and substantial evidence and 34098  
is in accordance with law. The judgment of the court shall be 34099  
final and conclusive unless reversed, vacated, or modified on 34100  
appeal. Such appeals may be taken by any party to the appeal 34101  
pursuant to the Rules of Practice of the Supreme Court and, to the 34102  
extent not in conflict with those rules, Chapter 2505. of the 34103  
Revised Code. 34104~~

~~(E)(1) Upon receipt of a completed application, the board 34105  
shall issue a hazardous waste facility installation and operation 34106~~

~~permit for a hazardous waste facility subject to the requirements 34107  
of divisions (D)(6) and (7) of this section and all applicable 34108  
federal regulations if the facility for which the permit is 34109  
requested satisfies all of the following: 34110~~

~~(a) Was in operation immediately prior to October 9, 1980; 34111~~

~~(b) Was in substantial compliance with applicable statutes 34112  
and rules in effect immediately prior to October 9, 1980, as 34113  
determined by the director; 34114~~

~~(c) Demonstrates to the board that its operations after 34115  
October 9, 1980, comply with applicable performance standards 34116  
adopted by the director pursuant to division (D) of section 34117  
3734.12 of the Revised Code; 34118~~

~~(d) Submits a completed application for a permit under 34119  
division (C) of this section within six months after October 9, 34120  
1980. 34121~~

~~The board shall act on the application within twelve months 34122  
after October 9, 1980. 34123~~

~~(2) A hazardous waste facility that was in operation 34124  
immediately prior to October 9, 1980, may continue to operate 34125  
after that date if it does all of the following: 34126~~

~~(a) Complies with performance standards adopted by the 34127  
director pursuant to division (D) of section 3734.12 of the 34128  
Revised Code; 34129~~

~~(b) Submits a completed application for a hazardous waste 34130  
installation and operation permit under division (C) of this 34131  
section within six months after October 9, 1980; 34132~~

~~(c) Obtains the permit under division (D) of this section 34133  
within twelve months after October 9, 1980. 34134~~

~~(3) No political subdivision of this state shall require any 34135  
additional zoning or other approval, consent, permit, certificate, 34136~~

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 34169  
hundred eighty days prior to the expiration date of the existing 34170  
permit or upon a later date prior to the expiration of the 34171  
existing permit if the permittee can demonstrate good cause for 34172  
the late submittal. The director shall consider the application 34173  
and accompanying information, inspection reports of the facility, 34174  
results of performance tests, a report regarding the facility's 34175  
compliance or noncompliance with the terms and conditions of its 34176  
permit and rules adopted by the director under this chapter, and 34177  
such other information as is relevant to the operation of the 34178  
facility and shall issue a draft renewal permit or a notice of 34179  
intent to deny the renewal permit. The director, in accordance 34180  
with rules adopted under this section or with rules adopted to 34181  
implement Chapter 3745. of the Revised Code, shall give public 34182  
notice of the application and draft renewal permit or notice of 34183  
intent to deny the renewal permit, provide for the opportunity for 34184  
public comments within a specified time period, schedule a public 34185  
meeting in the county in which the facility is located if 34186  
significant interest is shown, and give public notice of the 34187  
public meeting. 34188

(2) Within sixty days after the public meeting or close of 34189  
the public comment period, the director, without prior hearing, 34190  
shall issue or deny the renewal permit in accordance with Chapter 34191  
3745. of the Revised Code. The director shall not issue a renewal 34192  
permit unless the director determines that the facility under the 34193  
existing permit has a history of compliance with this chapter, 34194  
rules adopted under it, the existing permit, or orders entered to 34195  
enforce such requirements that demonstrates sufficient 34196  
reliability, expertise, and competency to operate the facility 34197  
henceforth under this chapter, rules adopted under it, and the 34198  
renewal permit. If the director approves an application for a 34199  
renewal permit, the director shall issue the permit subject to the 34200  
payment of the annual permit fee required under division (E) of 34201

section 3734.02 of the Revised Code and upon such terms and 34202  
conditions as the director finds are reasonable to ensure that 34203  
continued operation, maintenance, closure, and post-closure care 34204  
of the hazardous waste facility are in accordance with the rules 34205  
adopted under section 3734.12 of the Revised Code. 34206

(3) An installation and operation permit renewal application 34207  
submitted to the director that also contains or would constitute 34208  
an application for a modification shall be acted upon by the 34209  
director in accordance with division (I) of this section in the 34210  
same manner as an application for a modification. In approving or 34211  
disapproving the renewal portion of a permit renewal application 34212  
containing an application for a modification, the director shall 34213  
apply the criteria established under division (H)(2) of this 34214  
section. 34215

(4) An application for renewal or modification of a permit 34216  
that does not contain an application for a modification as 34217  
described in divisions (I)(3)(a) to (d) of this section shall not 34218  
be subject to division (D)(2) of this section. 34219

(I)(1) As used in this section, "modification" means a change 34220  
or alteration to a hazardous waste facility or its operations that 34221  
is inconsistent with or not authorized by its existing permit or 34222  
authorization to operate. Modifications shall be classified as 34223  
Class 1, 2, or 3 modifications in accordance with rules adopted 34224  
under division (K) of this section. Modifications classified as 34225  
Class 3 modifications, in accordance with rules adopted under that 34226  
division, shall be further classified by the director as either 34227  
Class 3 modifications that are to be approved or disapproved by 34228  
the ~~hazardous waste facility board as described in~~ director under 34229  
divisions (I)(3)(a) to (d) of this section or as Class 3 34230  
modifications that are to be approved or disapproved by the 34231  
director under division (I)(5) of this section. Not later than 34232  
thirty days after receiving a request for a modification under 34233

division (I)(4) of this section that is not listed in Appendix I 34234  
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 34235  
section, the director shall classify the modification and shall 34236  
notify the owner or operator of the facility requesting the 34237  
modification of the classification. Notwithstanding any other law 34238  
to the contrary, any modification that involves the transfer of a 34239  
hazardous waste facility installation and operation permit to a 34240  
new owner or operator shall be classified as a Class 3 34241  
modification. 34242

(2) Except as provided in section 3734.123 of the Revised 34243  
Code, a hazardous waste facility installation and operation permit 34244  
may be modified at the request of the director or upon the written 34245  
request of the permittee only if any of the following applies: 34246

(a) The permittee desires to accomplish alterations, 34247  
additions, or deletions to the permitted facility or to undertake 34248  
alterations, additions, deletions, or activities that are 34249  
inconsistent with or not authorized by the existing permit; 34250

(b) New information or data justify permit conditions in 34251  
addition to or different from those in the existing permit; 34252

(c) The standards, criteria, or rules upon which the existing 34253  
permit is based have been changed by new, amended, or rescinded 34254  
standards, criteria, or rules, or by judicial decision after the 34255  
existing permit was issued, and the change justifies permit 34256  
conditions in addition to or different from those in the existing 34257  
permit; 34258

(d) The permittee proposes to transfer the permit to another 34259  
person. 34260

(3) The director ~~has jurisdiction to~~ shall approve or 34261  
disapprove ~~applications~~ an application for ~~Class 1 modifications,~~ 34262  
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 34263  
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 34264

~~hazardous waste facility board has jurisdiction to approve or~~ 34265  
~~disapprove applications for any~~ a modification in accordance with 34266  
division (D)(2) of this section and rules adopted under division 34267  
(K) of this section for all of the following categories of Class 3 34268  
modifications: 34269

(a) Authority to conduct treatment, storage, or disposal at a 34270  
site, location, or tract of land that has not been authorized for 34271  
the proposed category of treatment, storage, or disposal activity 34272  
by the facility's permit; 34273

(b) Modification or addition of a hazardous waste management 34274  
unit, as defined in rules adopted under section 3734.12 of the 34275  
Revised Code, that results in an increase in a facility's storage 34276  
capacity of more than twenty-five per cent over the capacity 34277  
authorized by the facility's permit, an increase in a facility's 34278  
treatment rate of more than twenty-five per cent over the rate so 34279  
authorized, or an increase in a facility's disposal capacity over 34280  
the capacity so authorized. The authorized disposal capacity for a 34281  
facility shall be calculated from the approved design plans for 34282  
the disposal units at that facility. In no case during a five-year 34283  
period shall a facility's storage capacity or treatment rate be 34284  
modified to increase by more than twenty-five per cent in the 34285  
aggregate without ~~board~~ the director's approval in accordance with 34286  
division (D)(2) of this section. Notwithstanding any provision of 34287  
division (I) of this section to the contrary, a request for 34288  
modification of a facility's annual total waste receipt limit 34289  
shall be classified and approved or disapproved by the director 34290  
under division (I)(5) of this section. 34291

(c) Authority to add any of the following categories of 34292  
regulated activities not previously authorized at a facility by 34293  
the facility's permit: storage at a facility not previously 34294  
authorized to store hazardous waste, treatment at a facility not 34295  
previously authorized to treat hazardous waste, or disposal at a 34296

facility not previously authorized to dispose of hazardous waste; 34297  
or authority to add a category of hazardous waste management unit 34298  
not previously authorized at the facility by the facility's 34299  
permit. Notwithstanding any provision of division (I) of this 34300  
section to the contrary, a request for authority to add or to 34301  
modify an activity or a hazardous waste management unit for the 34302  
purposes of performing a corrective action shall be classified and 34303  
approved or disapproved by the director under division (I)(5) of 34304  
this section. 34305

(d) Authority to treat, store, or dispose of waste types 34306  
listed or characterized as reactive or explosive, in rules adopted 34307  
under section 3734.12 of the Revised Code, or any acute hazardous 34308  
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 34309  
previously authorized to treat, store, or dispose of those types 34310  
of wastes by the facility's permit unless the requested authority 34311  
is limited to wastes that no longer exhibit characteristics 34312  
meeting the criteria for listing or characterization as reactive 34313  
or explosive wastes, or for listing as acute hazardous waste, but 34314  
still are required to carry those waste codes as established in 34315  
rules adopted under section 3734.12 of the Revised Code because of 34316  
the requirements established in 40 C.F.R. 261(a) and (e), as 34317  
amended, that is, the "mixture," "derived-from," or "contained-in" 34318  
regulations. 34319

(4) A written request for a modification from the permittee 34320  
shall be submitted to the director and shall contain such 34321  
information as is necessary to support the request. ~~The director~~ 34322  
~~shall transmit to the board requests for Class 3 modifications~~ 34323  
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 34324  
~~hundred forty days after receiving the requests.~~ Requests for 34325  
modifications shall be acted upon by the director ~~or the board, as~~ 34326  
~~appropriate,~~ in accordance with this section and rules adopted 34327  
under it. 34328

(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 34361  
permit modification. 34362

As used in division (I)(5) of this section: 34363

(a) "Owner" means the person who owns a majority or 34364  
controlling interest in a facility. 34365

(b) "Operator" means the person who is responsible for the 34366  
overall operation of a facility. 34367

The director shall approve or disapprove an application for a 34368  
Class 1 modification that requires the director's approval within 34369  
sixty days after receiving the request for modification. The 34370  
director shall approve or disapprove an application for a Class 2 34371  
modification within three hundred days after receiving the request 34372  
for modification. The director shall approve or disapprove an 34373  
application for a Class 3 modification ~~that is not described in~~ 34374  
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 34375  
sixty-five days after receiving the request for modification. 34376

(6) The approval or disapproval by the director of a Class 1 34377  
modification application is not a final action that is appealable 34378  
under Chapter 3745. of the Revised Code. The approval or 34379  
disapproval by the director of a Class 2 modification or a Class 3 34380  
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 34381  
~~of this section~~ is a final action that is appealable under that 34382  
chapter. In approving or disapproving a request for a 34383  
modification, the director shall consider all comments pertaining 34384  
to the request that are received during the public comment period 34385  
and the public meetings. The administrative record for appeal of a 34386  
final action by the director in approving or disapproving a 34387  
request for a modification shall include all comments received 34388  
during the public comment period relating to the request for 34389  
modification, written materials submitted at the public meetings 34390  
relating to the request, and any other documents related to the 34391

director's action. 34392

~~(7) The hazardous waste facility board shall approve or 34393  
disapprove an application for a Class 3 modification transmitted 34394  
to it under division (I)(4) of this section, or that portion of a 34395  
permit renewal application that constitutes a Class 3 modification 34396  
application so transmitted, of a hazardous waste facility 34397  
installation and operation permit in accordance with division (D) 34398  
of this section. No other request for a modification shall be 34399  
subject to division (D)(6) of this section. No aspect of a 34400  
permitted facility or its operations that is not being modified as 34401  
described in division (I)(3)(a), (b), (c), or (d) of this section 34402  
shall be subject to review by the board under division (D) of this 34403  
section. 34404~~

~~(8) Notwithstanding any other provision of law to the 34405  
contrary, a change or alteration to a hazardous waste facility 34406  
described in division (E)(3)(a) or (b) of section 3734.02 of the 34407  
Revised Code, or its operations, is a modification for the 34408  
purposes of this section. An application for a modification at 34409  
such a facility shall be submitted, classified, and approved or 34410  
disapproved in accordance with divisions (I)(1) to ~~(7)(6)~~ of this 34411  
section in the same manner as a modification to a hazardous waste 34412  
facility installation and operation permit. 34413~~

(J)(1) Except as provided in division (J)(2) of this section, 34414  
an owner or operator of a hazardous waste facility that is 34415  
operating in accordance with a permit by rule under rules adopted 34416  
by the director under division (E)(3)(b) of section 3734.02 of the 34417  
Revised Code shall submit either a hazardous waste facility 34418  
installation and operation permit application for the facility or 34419  
a modification application, whichever is required under division 34420  
(J)(1)(a) or (b) of this section, within one hundred eighty days 34421  
after the director has requested the application or upon a later 34422  
date if the owner or operator demonstrates to the director good 34423

cause for the late submittal. 34424

(a) If the owner or operator does not have a hazardous waste 34425  
facility installation and operation permit for any hazardous waste 34426  
treatment, storage, or disposal activities at the facility, the 34427  
owner or operator shall submit an application for such a permit to 34428  
the director for the activities authorized by the permit by rule. 34429  
Notwithstanding any other provision of law to the contrary, the 34430  
director shall approve or disapprove the application for the 34431  
permit in accordance with the procedures governing the approval or 34432  
disapproval of permit renewals under division (H) of this section. 34433

(b) If the owner or operator has a hazardous waste facility 34434  
installation and operation permit for hazardous waste treatment, 34435  
storage, or disposal activities at the facility other than those 34436  
authorized by the permit by rule, the owner or operator shall 34437  
submit to the director a request for modification in accordance 34438  
with division (I) of this section. Notwithstanding any other 34439  
provision of law to the contrary, the director shall approve or 34440  
disapprove the modification application in accordance with ~~rules~~ 34441  
~~adopted under~~ division ~~(K)~~(I)(5) of this section. 34442

(2) The owner or operator of a boiler or industrial furnace 34443  
that is conducting thermal treatment activities in accordance with 34444  
a permit by rule under rules adopted by the director under 34445  
division (E)(3)(b) of section 3734.02 of the Revised Code shall 34446  
submit a hazardous waste facility installation and operation 34447  
permit application if the owner or operator does not have such a 34448  
permit for any hazardous waste treatment, storage, or disposal 34449  
activities at the facility or, if the owner or operator has such a 34450  
permit for hazardous waste treatment, storage, or disposal 34451  
activities at the facility other than thermal treatment activities 34452  
authorized by the permit by rule, a modification application to 34453  
add those activities authorized by the permit by rule, whichever 34454  
is applicable, within one hundred eighty days after the director 34455

has requested the submission of the application or upon a later 34456  
date if the owner or operator demonstrates to the director good 34457  
cause for the late submittal. The application shall be accompanied 34458  
by information necessary to support the request. The ~~hazardous~~ 34459  
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 34460  
application for a hazardous waste facility installation and 34461  
operation permit in accordance with division (D) of this section 34462  
and approve or disapprove an application for a modification in 34463  
accordance with division (I)(3) of this section, except that the 34464  
~~board~~ director shall not disapprove an application for the thermal 34465  
treatment activities on the basis of the criteria set forth in 34466  
division (D)~~(6)~~(2)(g) or (h) of this section. 34467

(3) As used in division (J) of this section: 34468

(a) "Modification application" means a request for a 34469  
modification submitted in accordance with division (I) of this 34470  
section. 34471

(b) "Thermal treatment," "boiler," and "industrial furnace" 34472  
have the same meanings as in rules adopted under section 3734.12 34473  
of the Revised Code. 34474

(K) The director shall adopt, and may amend, suspend, or 34475  
rescind, rules in accordance with Chapter 119. of the Revised Code 34476  
in order to implement divisions (H) and (I) of this section. 34477  
Except when in actual conflict with this section, rules governing 34478  
the classification of and procedures for the modification of 34479  
hazardous waste facility installation and operation permits shall 34480  
be substantively and procedurally identical to the regulations 34481  
governing hazardous waste facility permitting and permit 34482  
modifications adopted under the "Resource Conservation and 34483  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34484  
amended. 34485

**Sec. 3734.12.** The director of environmental protection shall 34486

adopt and may amend, suspend, and rescind rules in accordance with 34487  
Chapter 119. of the Revised Code, which shall be consistent with 34488  
and equivalent to the regulations adopted under the "Resource 34489  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 34490  
6921, as amended, except for rules adopted under divisions (D) and 34491  
(F) of this section governing solid waste facilities and except as 34492  
otherwise provided in this chapter, doing all of the following: 34493

(A) Adopting the criteria and procedures established under 34494  
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 34495  
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 34496  
waste. The director shall prepare, revise when appropriate, and 34497  
publish a list of substances or categories of substances 34498  
identified to be hazardous using the criteria specified in 40 34499  
C.F.R. 261, as amended, which shall be composed of at least those 34500  
substances identified as hazardous pursuant to section 3001(B) of 34501  
that act. The director shall not list any waste that the 34502  
administrator of the United States environmental protection agency 34503  
delisted or excluded by an amendment to the federal regulations, 34504  
any waste that the administrator declined to list by publishing a 34505  
denial of a rulemaking petition or by withdrawal of a proposed 34506  
listing in the United States federal register after May 18, 1980, 34507  
or any waste oil or polychlorinated biphenyl not listed by the 34508  
administrator. 34509

(B) Establishing standards for generators of hazardous waste 34510  
necessary to protect human health or safety or the environment in 34511  
accordance with this chapter, including, but not limited to, 34512  
requirements respecting all of the following: 34513

(1) Record-keeping practices that accurately identify the 34514  
quantities of hazardous waste generated, the constituents that are 34515  
significant in quantity or in potential harm to human health or 34516  
safety or the environment, and the disposition of the waste; 34517

(2) Labeling of containers used for storage, transportation, 34518

or disposal of hazardous waste to identify the waste accurately;	34519
(3) Use of appropriate containers for hazardous waste;	34520
(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;	34521 34522 34523
(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;	34524 34525 34526 34527 34528 34529 34530 34531 34532
(6) Submission of such reports to the director as the director determines necessary;	34533 34534
(7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	34535 34536
(8) Obtainment of a United States environmental protection agency identification number.	34537 34538
(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:	34539 34540 34541 34542
(1) Record-keeping concerning hazardous waste transported, including source and delivery points;	34543 34544
(2) Submission of such reports to the director as the director determines necessary;	34545 34546
(3) Transportation of only properly labeled waste;	34547
(4) Compliance with the manifest system required by division	34548

(B) of this section;	34549
(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;	34550 34551 34552 34553
(6) Contingency plans to minimize unanticipated damage from transportation of hazardous waste;	34554 34555
(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;	34556 34557 34558 34559
(8) Obtainment of a United States environmental protection agency identification number.	34560 34561
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.	34562 34563 34564 34565
(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:	34566 34567 34568 34569 34570 34571
(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;	34572 34573 34574 34575 34576
(2) Submission of such reports to the director as the director determines necessary;	34577 34578

(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;	34579 34580 34581
(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;	34582 34583 34584 34585
(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;	34586 34587 34588
(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;	34589 34590 34591
(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.	34592 34593 34594 34595 34596 34597 34598 34599 34600 34601
(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;	34602 34603 34604 34605
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	34606 34607
(10) Obtainment of a United States environmental protection	34608

agency identification number for each hazardous waste treatment, 34609  
storage, or disposal facility; 34610

(11) Trial burns and land treatment demonstrations. 34611

The rules adopted under divisions (D) and (F) of this section 34612  
pertaining to solid waste facilities do not apply to scrap tire 34613  
collection, storage, monocell, monofill, and recovery facilities. 34614  
Those facilities are subject to and governed by rules adopted 34615  
under sections 3734.70 to 3734.73 of the Revised Code, as 34616  
applicable. 34617

(E) Governing the issuance, modification, revocation, 34618  
suspension, withdrawal, and denial of installation and operation 34619  
permits, draft permits, and transportation certificates of 34620  
registration; 34621

(F) Specifying information required to be included in 34622  
applications for hazardous waste facility installation and 34623  
operation permits and solid waste permits, including, but not 34624  
limited to, detail plans, specifications, and information 34625  
respecting all of the following: 34626

(1) The composition, quantities, and concentrations of 34627  
hazardous waste and solid wastes to be stored, treated, 34628  
transported, or disposed of and such other information as the 34629  
director may require regarding the method of operation; 34630

(2) The facility to which the waste will be transported or 34631  
where it will be stored, treated, or disposed of; 34632

(3) The closure and post-closure care of a facility where 34633  
hazardous waste will no longer be treated, stored, or disposed of 34634  
and of a solid waste facility where solid wastes will no longer be 34635  
disposed of or transferred. 34636

(G) Establishing procedures ensuring that all information 34637  
entitled to protection as trade secrets disclosed to the director 34638

or the director's authorized representative is not disclosed 34639  
without the consent of the owner, except that such information may 34640  
be disclosed, upon request, to authorized representatives of the 34641  
United States environmental protection agency, or as required by 34642  
law. As used in this section, "trade secrets" means any formula, 34643  
plan, pattern, process, tool, mechanism, compound, procedure, 34644  
production date, or compilation of information that is not 34645  
patented, that is known only to certain individuals within a 34646  
commercial concern who are using it to fabricate, produce, or 34647  
compound an article, trade, or service having commercial value, 34648  
and that gives its user an opportunity to obtain a business 34649  
advantage over competitors who do not know or use it. 34650

(H) Prohibiting the disposal of specified hazardous wastes in 34651  
this state if the director has determined both of the following: 34652

(1) The potential impacts on human health or safety or the 34653  
environment are such that disposal of those wastes should not be 34654  
allowed. 34655

(2) A technically feasible and environmentally sound 34656  
alternative is reasonably available, either within or outside this 34657  
state, for processing, recycling, fixation of, neutralization of, 34658  
or other treatment of those wastes. Such reasonable availability 34659  
shall not be determined without a consideration of the costs to 34660  
the generator of implementing the alternatives. 34661

The director shall adopt, and may amend, suspend, or rescind, 34662  
rules to specify hazardous wastes that shall not be disposed of in 34663  
accordance with this division. Nothing in this division, either 34664  
prior to or after adoption of those rules, shall preclude the 34665  
director ~~or the hazardous waste facility board created in section~~ 34666  
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 34667  
specified hazardous wastes at particular facilities under the 34668  
terms or conditions of a permit or ~~preclude the director from~~ 34669  
~~prohibiting that disposal~~ by order. 34670

(I)(1)(a) Governing the following that may be more stringent 34671  
than the regulations adopted under the "Resource Conservation and 34672  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34673  
amended, when the director determines that such more stringent 34674  
rules are reasonable in order to protect human health or safety or 34675  
the environment: 34676

(i) Specific wastes that the director determines, because of 34677  
their physical, chemical, or biological characteristics, are so 34678  
extremely hazardous that the storage, treatment, or disposal of 34679  
the wastes in compliance with those regulations would present an 34680  
imminent danger to human health or safety or the environment; 34681

(ii) The use of only properly designed, operated, and 34682  
approved transfer facilities; 34683

(iii) Preventing illegitimate activities relating to the 34684  
reuse, recycling, or reclaiming of hazardous waste, including 34685  
record-keeping, reporting, and manifest requirements. 34686

(b) In adopting such more stringent rules, the director shall 34687  
give consideration to and base the rules on evidence concerning 34688  
factors including, but not limited to, the following insofar as 34689  
pertinent: 34690

(i) Geography of the state; 34691

(ii) Geology of the state; 34692

(iii) Hydrogeology of the state; 34693

(iv) Climate of the state; 34694

(v) Engineering and technical feasibility; 34695

(vi) Availability of alternative technologies or methods of 34696  
storage, treatment, or disposal. 34697

(2) The director may require from generators and transporters 34698  
of hazardous waste and from owners or operators of treatment, 34699

storage, or disposal facilities, the submission of reports in 34700  
addition to those required under regulations adopted under the 34701  
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 34702  
42 U.S.C.A. 6921, as amended, to the extent that such reports 34703  
contain information that the generator, transporter, or facility 34704  
owner or operator is required to obtain in order to comply with 34705  
the regulations adopted by the administrator of the United States 34706  
environmental protection agency under the "Resource Conservation 34707  
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34708  
amended, or to the extent that such reports are required by the 34709  
director to meet the requirements of division (B)(7), (D)(9), or 34710  
(H) of this section or section 3734.121 of the Revised Code. 34711

(J) Governing the storage, treatment, or disposal of 34712  
hazardous waste in, and the permitting, design, construction, 34713  
operation, monitoring, inspection, closure, and post-closure care 34714  
of, hazardous waste underground injection wells, surface 34715  
impoundments, waste piles other than those composed of materials 34716  
removed from the ground as part of coal or mineral extraction or 34717  
cleaning processes, land treatment facilities, thermal treatment 34718  
facilities, and landfills that may be more stringent than the 34719  
regulations adopted under the "Resource Conservation and Recovery 34720  
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 34721  
whenever the director reasonably determines that federal 34722  
regulations will not adequately protect the public health or 34723  
safety or the environment of this state with respect to the 34724  
subject matter of the more stringent rules. Such more stringent 34725  
rules shall be developed to achieve a degree of protection, as 34726  
determined by the director, consistent with the degree of hazard 34727  
potentially posed by the various wastes or categories of wastes to 34728  
be treated, stored, or disposed of and the types of facilities at 34729  
which they are to be treated, stored, or disposed of. In adopting 34730  
such more stringent rules, the director shall give consideration 34731  
to and base the rules on evidence concerning factors including, 34732

but not limited to, the following insofar as pertinent:	34733
(1) Geography of the state;	34734
(2) Geology of the state;	34735
(3) Hydrogeology of the state;	34736
(4) Climate of the state;	34737
(5) Engineering and technical feasibility;	34738
(6) Availability of alternative technologies or methods of storage, treatment, or disposal.	34739 34740
(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:	34741 34742 34743 34744
(1) Material that is subject to regulation as used oil;	34745
(2) Generation of used oil;	34746
(3) Used oil collection centers and aggregation points;	34747
(4) Transportation of used oil;	34748
(5) Processing and re-refining of used oil;	34749
(6) Burning of used oil;	34750
(7) Marketing of used oil;	34751
(8) Disposal of used oil;	34752
(9) Use of used oil as a dust suppressant.	34753
<b>Sec. 3734.123.</b> (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	34754 34755 34756 34757 34758 34759

owns or operates the device or one who controls, is controlled by, 34760  
or is under common control with the person who owns or operates 34761  
the device. "Commercial hazardous waste incinerator" does not 34762  
include any "boiler" or "industrial furnace" as those terms are 34763  
defined in rules adopted under section 3734.12 of the Revised 34764  
Code. 34765

(B) Not sooner than three years after April 15, 1993, and 34766  
triennially thereafter, the director of environmental protection 34767  
shall prepare, publish, and issue as a final action an assessment 34768  
of commercial hazardous waste incinerator capacity in this state. 34769  
However, after the issuance as a final action of a determination 34770  
under division (A) of section 3734.124 of the Revised Code that 34771  
terminates the restrictions established in division (C) of this 34772  
section, the director shall cease preparing, publishing, and 34773  
issuing the periodic assessments required under this division. The 34774  
assessment shall determine the amount of commercial hazardous 34775  
waste incinerator capacity needed to manage the hazardous waste 34776  
expected to be generated in this state and imported into this 34777  
state for incineration at commercial hazardous waste incinerators 34778  
during the next succeeding twenty calendar years. The assessment 34779  
shall include at least all of the following: 34780

(1) A determination of the aggregate treatment capacity 34781  
authorized at commercial hazardous waste incinerators located in 34782  
this state; 34783

(2) A determination of the quantity of hazardous waste 34784  
generated in this state that is being treated at commercial 34785  
hazardous waste incinerators located in this state and projections 34786  
of the quantity of hazardous waste generated in this state that 34787  
will be treated at those facilities; 34788

(3) A determination of the quantity of hazardous waste 34789  
generated outside this state that is being treated at commercial 34790  
hazardous waste incinerators located in this state and projections 34791

of the quantity of hazardous waste generated outside this state 34792  
that will be treated at those facilities; 34793

(4) A determination of the quantity of hazardous waste 34794  
generated in this state that is being treated at commercial 34795  
hazardous waste incinerators located outside this state, and 34796  
projections of the quantity of hazardous waste generated in this 34797  
state that will be treated at those facilities; 34798

(5) The amount of commercial hazardous waste incinerator 34799  
capacity that the director reasonably anticipates will be needed 34800  
during the first three years of the planning period to treat 34801  
hazardous waste generated from the remediation of sites in this 34802  
state that are on the national priority list required under the 34803  
"Comprehensive Environmental Response, Compensation, and Liability 34804  
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 34805  
result of corrective actions implemented under the "Resource 34806  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 34807  
6921, as amended; and as a result of clean-up activities conducted 34808  
at sites listed on the master sites list prepared by the 34809  
environmental protection agency; 34810

(6) Based upon available data, provided that the data are 34811  
reliable and are compatible with the data base of the 34812  
environmental protection agency, an identification of any 34813  
hazardous waste first listed as a hazardous waste in regulations 34814  
adopted under the "Resource Conservation and Recovery Act of 34815  
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 34816  
April 15, 1993, and of any hazardous waste that has been proposed 34817  
for such listing by publication of a notice in the federal 34818  
register on or before December 1 of the year immediately preceding 34819  
the triennial assessment; 34820

(7) An analysis of other factors that may result in capacity 34821  
changes over the period addressed by the assessment. 34822

(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 34854  
necessary for the operation of a new commercial hazardous waste 34855  
incinerator, or the modification of such an existing incinerator 34856  
to increase either the treatment capacity of the incinerator or 34857  
the quantity of hazardous waste that is authorized to be treated 34858  
by it. Upon determining that an application for any permit 34859  
pertains to the establishment, modification, or operation of any 34860  
appurtenant facility or equipment, the director shall cease 34861  
reviewing the application and return the application and 34862  
accompanying materials to the applicant along with a written 34863  
notice that division (C)(1)~~(e)~~(b) of this section precludes the 34864  
director from reviewing and acting upon the application. 34865

~~(d)~~(c) Issue any exemption order under division (G) of 34866  
section 3734.02 of the Revised Code exempting the establishment of 34867  
a new commercial hazardous waste incinerator; the modification of 34868  
an existing facility to increase either the treatment capacity of 34869  
the incinerator or the quantity of hazardous waste that is 34870  
authorized to be treated by it; or the establishment, 34871  
modification, or operation of any facility or equipment 34872  
appurtenant to a new or modified commercial hazardous waste 34873  
incinerator, from divisions (C)(1)(a)~~7~~ or (b)~~7~~ ~~or~~ ~~(e)~~ or (C)(2) ~~or~~ 34874  
~~(3)~~ of this section. 34875

~~(2) The staff of the environmental protection agency shall 34876  
not take any action under division (D)(3) of section 3734.05 of 34877  
the Revised Code to review, or to make a preliminary determination 34878  
of compliance with the rules and standards set forth in divisions 34879  
(D), (I), and (J) of section 3734.12 of the Revised Code 34880  
regarding, any If the director determines that an application for 34881  
a hazardous waste facility installation and operation permit 34882  
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 34883  
Code ~~that~~ pertains to the establishment of a new commercial 34884  
hazardous waste incinerator, or ~~any~~ a request for a modification 34885~~

~~of an existing incinerator~~ submitted under division (I)(4) of that 34886  
section ~~to modify an existing incinerator~~ pertains to an increase 34887  
of either the treatment capacity of the incinerator or the 34888  
quantity of hazardous waste that is authorized to be treated by 34889  
it. ~~Upon determining that an application or request submitted~~ 34890  
~~under those divisions~~ pertains to the establishment of a new 34891  
~~commercial hazardous waste incinerator or the modification of an~~ 34892  
~~existing incinerator,~~ the staff of the agency director shall cease 34893  
reviewing the application or request and shall return it and the 34894  
accompanying materials to the applicant along with a written 34895  
notice that division (C)(2) of this section precludes the ~~staff~~ 34896  
~~from reviewing or making any preliminary determination of~~ 34897  
~~compliance regarding~~ review of the application or request. 34898

~~(3) The hazardous waste facility board created in section~~ 34899  
~~3734.05 of the Revised Code shall not do either of the following:~~ 34900

~~(a) Approve any application for a hazardous waste facility~~ 34901  
~~installation and operation permit, or issue any permit, under~~ 34902  
~~divisions (D) and (F) of section 3734.05 of the Revised Code that~~ 34903  
~~authorizes the establishment and operation of a new commercial~~ 34904  
~~hazardous waste incinerator;~~ 34905

~~(b) Approve any request to modify an existing commercial~~ 34906  
~~hazardous waste incinerator under divisions (D) and (I)(7) of~~ 34907  
~~section 3734.05 of the Revised Code that authorizes an increase in~~ 34908  
~~either the treatment capacity of the incinerator or the quantity~~ 34909  
~~of hazardous waste authorized to be treated by it.~~ 34910

**Sec. 3734.124.** (A) Promptly after issuing a periodic 34911  
assessment under division (B) of section 3734.123 of the Revised 34912  
Code, the director of environmental protection shall make a 34913  
determination as to whether it is necessary or appropriate to 34914  
continue the restrictions established in division (C) of section 34915  
3734.123 of the Revised Code during the period of time between the 34916

issuance of the assessment and the issuance of the next succeeding 34917  
periodic assessment or as to whether it is necessary or 34918  
appropriate to terminate the restrictions. The director shall 34919  
consider all of the following when making a determination under 34920  
this division: 34921

(1) The findings of the assessment; 34922

(2) The findings of an evaluation conducted by the director, 34923  
in consultation with the chairperson of the state emergency 34924  
response commission created in section 3750.02 of the Revised 34925  
Code, regarding the capability of this state to respond to the 34926  
types and frequencies of releases of hazardous waste that are 34927  
likely to occur at commercial hazardous waste incinerators; 34928

(3) The effect that a new commercial hazardous waste 34929  
incinerator may have on ambient air quality in this state; 34930

(4) The findings of a review of relevant information 34931  
regarding the impacts of commercial hazardous waste incinerators 34932  
on human health and the environment, such as health studies and 34933  
risk assessments; 34934

(5) The findings of a review of the operational records of 34935  
commercial hazardous waste incinerators operating in this state; 34936

(6) The findings of any review of relevant information 34937  
concerning the following: 34938

(a) The cost of and access to commercial hazardous waste 34939  
incinerator capacity; 34940

(b) The length of time and the regulatory review process 34941  
necessary to fully permit a commercial hazardous waste 34942  
incinerator; 34943

(c) Access to long-term capital investment to fund the 34944  
building of a commercial hazardous waste incinerator in this 34945  
state; 34946

(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;~~ 34978  
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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;~~ 34992  
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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;~~ 34998  
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~~(d)(2) To the extent otherwise authorized in division (G) of~~ 35009

section 3734.02 of the Revised Code, issue an order exempting the 35010  
establishment of a new commercial hazardous waste incinerator; the 35011  
modification of an existing incinerator to increase either the 35012  
treatment capacity of the incinerator or the quantity of hazardous 35013  
waste that is authorized to be treated by it; or the 35014  
establishment, modification, or operation of any facility or 35015  
equipment appurtenant to a new or modified commercial hazardous 35016  
waste incinerator, from division (C)(1)(a), ~~or (b), or (c)~~ or 35017  
(C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code. 35018

~~(2) The staff of the environmental protection agency may do 35019  
both of the following: 35020~~

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 35021  
of the Revised Code, review an application for a hazardous waste 35022  
facility installation and operation permit to establish a new 35023  
commercial hazardous waste incinerator or a request to modify an 35024  
existing incinerator to increase either the treatment capacity of 35025  
the incinerator or the quantity of hazardous waste authorized to 35026  
be treated by it; 35027~~

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 35028  
of the Revised Code, make a preliminary determination as to 35029  
whether an application for a hazardous waste facility permit to 35030  
install and operate a new commercial hazardous waste incinerator 35031  
or a request to modify an existing incinerator to increase either 35032  
the treatment capacity of the incinerator or the quantity of 35033  
hazardous waste authorized to be treated by it appears to comply 35034  
with the rules and performance standards set forth under divisions 35035  
(D), (I), and (J) of section 3734.12 of the Revised Code. 35036~~

~~(3) The hazardous waste facility board may do both of the 35037  
following: 35038~~

~~(a) Approve or disapprove an application for a hazardous 35039  
waste facility installation and operation permit, and issue a 35040~~

permit, under ~~divisions~~ division (D) and ~~(F)~~ of section 3734.05 of 35041  
the Revised Code for a new commercial hazardous waste incinerator; 35042

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 35043  
(4) Approve or disapprove under division (I) of section 3734.05 of 35044  
the Revised Code a request to modify the permit of an existing 35045  
commercial hazardous waste incinerator to increase either the 35046  
treatment capacity of the incinerator or the quantity of hazardous 35047  
waste authorized to be treated by it. 35048

**Sec. 3734.18.** (A) There are hereby levied fees on the 35049  
disposal of hazardous waste to be collected according to the 35050  
following schedule at each disposal facility to which ~~the~~ 35051  
~~hazardous waste facility board has issued~~ a hazardous waste 35052  
facility installation and operation permit or ~~the director of~~ 35053  
~~environmental protection has issued a renewal of a permit pursuant~~ 35054  
~~to section 3734.05 of the Revised Code~~ has been issued under this 35055  
chapter: 35056

(1) For disposal facilities that are off-site facilities as 35057  
defined in division (E) of section 3734.02 of the Revised Code, 35058  
fees shall be levied at the rate of four dollars and fifty cents 35059  
per ton for hazardous waste disposed of by deep well injection and 35060  
nine dollars per ton for hazardous waste disposed of by land 35061  
application or landfilling. The owner or operator of the facility, 35062  
as a trustee for the state, shall collect the fees and forward 35063  
them to the director in accordance with rules adopted under this 35064  
section. 35065

(2) For disposal facilities that are on-site or satellite 35066  
facilities, as defined in division (E) of section 3734.02 of the 35067  
Revised Code, fees shall be levied at the rate of two dollars per 35068  
ton for hazardous waste disposed of by deep well injection and 35069  
four dollars per ton for hazardous waste disposed of by land 35070  
application or landfilling. The maximum annual disposal fee for an 35071

on-site disposal facility that disposes of one hundred thousand 35072  
tons or less of hazardous waste in a year is twenty-five thousand 35073  
dollars. The maximum annual disposal fee for an on-site facility 35074  
that disposes of more than one hundred thousand tons of hazardous 35075  
waste in a year by land application or landfilling is fifty 35076  
thousand dollars, and the maximum annual fee for an on-site 35077  
facility that disposes of more than one hundred thousand tons of 35078  
hazardous waste in a year by deep well injection is one hundred 35079  
thousand dollars. The maximum annual disposal fee for a satellite 35080  
facility that disposes of one hundred thousand tons or less of 35081  
hazardous waste in a year is thirty-seven thousand five hundred 35082  
dollars, and the maximum annual disposal fee for a satellite 35083  
facility that disposes of more than one hundred thousand tons of 35084  
hazardous waste in a year is seventy-five thousand dollars, except 35085  
that a satellite facility defined under division (E)(3)(b) of 35086  
section 3734.02 of the Revised Code that receives hazardous waste 35087  
from a single generation site is subject to the same maximum 35088  
annual disposal fees as an on-site disposal facility. The owner or 35089  
operator shall pay the fee to the director each year upon the 35090  
anniversary of the date of issuance of the owner's or operator's 35091  
installation and operation permit during the term of that permit 35092  
and any renewal permit issued under division (H) of section 35093  
3734.05 of the Revised Code. If payment is late, the owner or 35094  
operator shall pay an additional ten per cent of the amount of the 35095  
fee for each month that it is late. 35096

(B) There are hereby levied fees at the rate of two dollars 35097  
per ton on hazardous waste that is treated at treatment facilities 35098  
that are not on-site or satellite facilities, as defined in 35099  
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 35100  
~~hazardous waste facility board has issued~~ a hazardous waste 35101  
facility installation and operation permit or ~~the director~~ renewal 35102  
of a permit has been issued ~~a renewal permit~~ under this chapter, 35103  
or that are not subject to the hazardous waste facility 35104

installation and operation permit requirements under rules adopted 35105  
by the director. 35106

(C) There are hereby levied additional fees on the treatment 35107  
and disposal of hazardous waste at the rate of ten per cent of the 35108  
applicable fees prescribed in division (A) or (B) of this section 35109  
for the purposes of paying the costs of municipal corporations and 35110  
counties for conducting reviews of applications for hazardous 35111  
waste facility installation and operation permits for proposed new 35112  
or modified hazardous waste landfills within their boundaries, 35113  
emergency response actions with respect to releases of hazardous 35114  
waste from hazardous waste facilities within their boundaries, 35115  
monitoring the operation of such hazardous waste facilities, and 35116  
local waste management planning programs. The owner or operator of 35117  
a facility located within a municipal corporation, as a trustee 35118  
for the municipal corporation, shall collect the fees levied by 35119  
this division and forward them to the treasurer of the municipal 35120  
corporation or such officer as, by virtue of the charter, has the 35121  
duties of the treasurer in accordance with rules adopted under 35122  
this section. The owner or operator of a facility located in an 35123  
unincorporated area, as a trustee of the county in which the 35124  
facility is located, shall collect the fees levied by this 35125  
division and forward them to the county treasurer of that county 35126  
in accordance with rules adopted under this section. The owner or 35127  
operator shall pay the fees levied by this division to the 35128  
treasurer or such other officer of the municipal corporation or to 35129  
the county treasurer each year upon the anniversary of the date of 35130  
issuance of the owner's or operator's installation and operation 35131  
permit during the term of that permit and any renewal permit 35132  
issued under division (H) of section 3734.05 of the Revised Code. 35133  
If payment is late, the owner or operator shall pay an additional 35134  
ten per cent of the amount of the fee for each month that the 35135  
payment is late. 35136

Moneys received by a municipal corporation under this 35137  
division shall be paid into a special fund of the municipal 35138  
corporation and used exclusively for the purposes of conducting 35139  
reviews of applications for hazardous waste facility installation 35140  
and operation permits for new or modified hazardous waste 35141  
landfills located or proposed within the municipal corporation, 35142  
conducting emergency response actions with respect to releases of 35143  
hazardous waste from facilities located within the municipal 35144  
corporation, monitoring operation of such hazardous waste 35145  
facilities, and conducting waste management planning programs 35146  
within the municipal corporation through employees of the 35147  
municipal corporation or pursuant to contracts entered into with 35148  
persons or political subdivisions. Moneys received by a board of 35149  
county commissioners under this division shall be paid into a 35150  
special fund of the county and used exclusively for those purposes 35151  
within the unincorporated area of the county through employees of 35152  
the county or pursuant to contracts entered into with persons or 35153  
political subdivisions. 35154

(D) As used in this section, "treatment" or "treated" does 35155  
not include any method, technique, or process designed to recover 35156  
energy or material resources from the waste or to render the waste 35157  
amenable for recovery. The fees levied by division (B) of this 35158  
section do not apply to hazardous waste that is treated and 35159  
disposed of on the same premises or by the same person. 35160

(E) The director, by rules adopted in accordance with 35161  
Chapters 119. and 3745. of the Revised Code, shall prescribe any 35162  
dates not specified in this section and procedures for collecting 35163  
and forwarding the fees prescribed by this section and may 35164  
prescribe other requirements that are necessary to carry out this 35165  
section. 35166

The director shall deposit the moneys collected under 35167  
divisions (A) and (B) of this section into one or more minority 35168

banks, as "minority bank" is defined in division (F)(1) of section 35169  
135.04 of the Revised Code, to the credit of the hazardous waste 35170  
facility management fund, which is hereby created in the state 35171  
treasury, except that the director shall deposit to the credit of 35172  
the underground injection control fund created in section 6111.046 35173  
of the Revised Code moneys in excess of fifty thousand dollars 35174  
that are collected during a fiscal year under division (A)(2) of 35175  
this section from the fee levied on the disposal of hazardous 35176  
waste by deep well injection at an on-site disposal facility that 35177  
disposes of more than one hundred thousand tons of hazardous waste 35178  
in a year. 35179

The environmental protection agency ~~and the hazardous waste~~ 35180  
~~facility board~~ may use moneys in the hazardous waste facility 35181  
management fund for administration of the hazardous waste program 35182  
established under this chapter and, in accordance with this 35183  
section, may request approval by the controlling board for that 35184  
use on an annual basis. In addition, the agency may use and pledge 35185  
moneys in that fund for repayment of and for interest on any loans 35186  
made by the Ohio water development authority to the agency for the 35187  
hazardous waste program established under this chapter without the 35188  
necessity of requesting approval by the controlling board, which 35189  
use and pledge shall have priority over any other use of the 35190  
moneys in the fund. 35191

Until September 28, 1996, the director also may use moneys in 35192  
the fund to pay the start-up costs of administering Chapter 3746. 35193  
of the Revised Code. 35194

If moneys in the fund that the agency uses in accordance with 35195  
this chapter are reimbursed by grants or other moneys from the 35196  
United States government, the grants or other moneys shall be 35197  
placed in the fund. 35198

Before the agency makes any expenditure from the fund other 35199  
than for repayment of and interest on any loan made by the Ohio 35200

water development authority to the agency in accordance with this 35201  
section, the controlling board shall approve the expenditure. 35202

**Sec. 3734.28.** All moneys collected under sections 3734.122, 35203  
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 35204  
Code and natural resource damages collected by the state under the 35205  
"Comprehensive Environmental Response, Compensation, and Liability 35206  
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 35207  
be paid into the state treasury to the credit of the hazardous 35208  
waste clean-up fund, which is hereby created. The environmental 35209  
protection agency shall use the moneys in the fund for the 35210  
purposes set forth in division (D) of section 3734.122, sections 35211  
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 35212  
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 35213  
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 35214  
including any related enforcement expenses. In addition, the 35215  
agency shall use the moneys in the fund to pay the state's 35216  
long-term operation and maintenance costs or matching share for 35217  
actions taken under the "Comprehensive Environmental Response, 35218  
Compensation, and Liability Act of 1980," as amended. If those 35219  
moneys are reimbursed by grants or other moneys from the United 35220  
States or any other person, the moneys shall be placed in the fund 35221  
and not in the general revenue fund. 35222

**Sec. 3734.42.** (A)(1) Except as otherwise provided in division 35223  
(E)(2) of this section, every applicant for a permit other than a 35224  
permit modification or renewal shall file a disclosure statement, 35225  
on a form developed by the attorney general, with the director of 35226  
environmental protection and the attorney general at the same time 35227  
the applicant files an application for a permit other than a 35228  
permit modification or renewal with the director. 35229

35230

(2) Any individual required to be listed in the disclosure 35231

statement shall be fingerprinted for identification and 35232  
investigation purposes in accordance with procedures established 35233  
by the attorney general. An individual required to be 35234  
fingerprinted under this section shall not be required to be 35235  
fingerprinted more than once under this section. 35236

(3) The attorney general, within one hundred eighty days 35237  
after receipt of the disclosure statement from an applicant for a 35238  
permit, shall prepare and transmit to the director an 35239  
investigative report on the applicant, based in part upon the 35240  
disclosure statement, except that this deadline may be extended 35241  
for a reasonable period of time, for good cause, by the director 35242  
or the attorney general. In preparing this report, the attorney 35243  
general may request and receive criminal history information from 35244  
the federal bureau of investigation and any other law enforcement 35245  
agency or organization. The attorney general may provide such 35246  
confidentiality regarding the information received from a law 35247  
enforcement agency as may be imposed by that agency as a condition 35248  
for providing that information to the attorney general. 35249

(4) The review of the application by the director ~~or the~~ 35250  
~~hazardous waste facility board~~ shall include a review of the 35251  
disclosure statement and investigative report. 35252

(B) All applicants and permittees shall provide any 35253  
assistance or information requested by the director or the 35254  
attorney general and shall cooperate in any inquiry or 35255  
investigation conducted by the attorney general and any inquiry, 35256  
investigation, or hearing conducted by the director ~~or the~~ 35257  
~~hazardous waste facility board~~. If, upon issuance of a formal 35258  
request to answer any inquiry or produce information, evidence, or 35259  
testimony, any applicant or permittee, any officer, director, or 35260  
partner of any business concern, or any key employee of the 35261  
applicant or permittee refuses to comply, the permit of the 35262  
applicant or permittee may be denied or revoked by the director ~~or~~ 35263

~~the board.~~ 35264

(C) The attorney general may charge and collect such fees 35265  
from applicants and permittees as are necessary to cover the costs 35266  
of administering and enforcing the investigative procedures 35267  
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 35268  
attorney general shall transmit moneys collected under this 35269  
division to the treasurer of state to be credited to the solid and 35270  
hazardous waste background investigations fund, which is hereby 35271  
created in the state treasury. Moneys in the fund shall be used 35272  
solely for paying the attorney general's costs of administering 35273  
and enforcing the investigative procedures authorized in sections 35274  
3734.41 to 3734.47 of the Revised Code. 35275

(D) Annually on the anniversary date of the submission to the 35276  
director by the attorney general of the investigative report for a 35277  
specific facility, or annually on another date assigned by the 35278  
attorney general, the appropriate applicant, permittee, or 35279  
prospective owner shall submit to the attorney general, on a form 35280  
provided by the attorney general, any and all information required 35281  
to be included in a disclosure statement that has changed or been 35282  
added in the immediately preceding year. If, in the immediately 35283  
preceding year, there have been no changes in or additions to the 35284  
information required to be included in a disclosure statement, the 35285  
appropriate applicant, permittee, or prospective owner shall 35286  
submit to the attorney general an affidavit stating that there 35287  
have been no changes in or additions to that information during 35288  
that time period. 35289

Notwithstanding the requirement for an annual submission of 35290  
information, the following information shall be submitted within 35291  
the periods specified: 35292

(1) Information required to be included in the disclosure 35293  
statement for any new officer, director, partner, or key employee, 35294  
to be submitted within ninety days from the addition of the 35295

officer, director, partner, or key employee;	35296
(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;	35297 35298 35299
(3) Information regarding any new criminal conviction, to be submitted within ninety days from the judgment entry of conviction.	35300 35301 35302
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.	35303 35304 35305 35306 35307 35308 35309 35310 35311
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.	35312 35313 35314 35315
(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.	35316 35317 35318 35319 35320 35321 35322 35323 35324 35325
(2) An applicant for a permit for an off-site solid waste	35326

facility that is a scrap tire storage, monocell, monofill, or 35327  
recovery facility issued under section 3734.76, 3734.77, or 35328  
3734.78 of the Revised Code, as applicable, shall file a 35329  
disclosure statement within five years after October 29, 1993, 35330  
pursuant to a schedule for submissions of disclosure statements 35331  
developed by the attorney general. The schedule shall provide all 35332  
such applicants with at least one hundred eighty days' notice 35333  
prior to the date upon which the statement shall be submitted. All 35334  
other terms of the schedule shall be established at the discretion 35335  
of the attorney general and shall not be subject to judicial 35336  
review. 35337

Beginning five years after October 29, 1993, an applicant for 35338  
such a permit shall file a disclosure statement in accordance with 35339  
division (A)(1) of this section. 35340

(3) When a permittee submits a disclosure statement at the 35341  
time it submits an application for a renewal or modification of 35342  
its permit, the attorney general shall remove the permittee from 35343  
the submission schedule established pursuant to division (E)(1) or 35344  
(2) of this section. 35345

(4) After receiving a disclosure statement under division 35346  
(E)(1) or (2) of this section, the attorney general shall prepare 35347  
an investigative report and transmit it to the director. The 35348  
director shall review the disclosure statement and investigative 35349  
report to determine whether the statement or report contains 35350  
information that if submitted with a permit application would 35351  
require a denial of the permit pursuant to section 3734.44 of the 35352  
Revised Code. If the director determines that the statement or 35353  
report contains such information, the director may revoke any 35354  
previously issued permit pursuant to section 3734.45 of the 35355  
Revised Code, or the director shall deny any application for a 35356  
renewal of a permit or license. When the renewal of the license is 35357  
being performed by a board of health, the director shall instruct 35358

the board of health about those circumstances under which the 35359  
renewal is required to be denied by this section. 35360

(F)(1) Whenever there is a change in ownership of any 35361  
off-site solid waste facility, including incinerators, any 35362  
transfer facility, any off-site infectious waste treatment 35363  
facility, or any off-site hazardous waste treatment, storage, or 35364  
disposal facility, the prospective owner shall file a disclosure 35365  
statement with the attorney general and the director at least one 35366  
hundred eighty days prior to the proposed change in ownership. 35367  
Upon receipt of the disclosure statement, the attorney general 35368  
shall prepare an investigative report and transmit it to the 35369  
director. The director shall review the disclosure statement and 35370  
investigative report to determine whether the statement or report 35371  
contains information that if submitted with a permit application 35372  
would require a denial of the permit pursuant to section 3734.44 35373  
of the Revised Code. If the director determines that the statement 35374  
or report contains such information, the director shall disapprove 35375  
the change in ownership. 35376

(2) If the parties to a change in ownership decide to proceed 35377  
with the change prior to the action of the director on the 35378  
disclosure statement and investigative report, the parties shall 35379  
include in all contracts or other documents reflecting the change 35380  
in ownership language expressly making the change in ownership 35381  
subject to the approval of the director and expressly negating the 35382  
change if it is disapproved by the director pursuant to division 35383  
(F)(1) of this section. 35384

(3) As used in this section, "change in ownership" includes 35385  
any change in the names, other than those of officers, directors, 35386  
partners, or key employees, contained in the disclosure statement. 35387

**Sec. 3734.44.** Notwithstanding the provisions of any law to 35388  
the contrary, no permit or license shall be issued or renewed by 35389

the director of environmental protection, ~~the hazardous waste~~ 35390  
~~facility board,~~ or a board of health: 35391

(A) Unless the director, ~~the hazardous waste facility board,~~ 35392  
or the board of health finds that the applicant, in any prior 35393  
performance record in the transportation, transfer, treatment, 35394  
storage, or disposal of solid wastes, infectious wastes, or 35395  
hazardous waste, has exhibited sufficient reliability, expertise, 35396  
and competency to operate the solid waste, infectious waste, or 35397  
hazardous waste facility, given the potential for harm to human 35398  
health and the environment that could result from the 35399  
irresponsible operation of the facility, or, if no prior record 35400  
exists, that the applicant is likely to exhibit that reliability, 35401  
expertise, and competence; 35402

(B) If any individual or business concern required to be 35403  
listed in the disclosure statement or shown to have a beneficial 35404  
interest in the business of the applicant or the permittee, other 35405  
than an equity interest or debt liability, by the investigation 35406  
thereof, has been convicted of any of the following crimes under 35407  
the laws of this state or equivalent laws of any other 35408  
jurisdiction: 35409

- (1) Murder; 35410
- (2) Kidnapping; 35411
- (3) Gambling; 35412
- (4) Robbery; 35413
- (5) Bribery; 35414
- (6) Extortion; 35415
- (7) Criminal usury; 35416
- (8) Arson; 35417
- (9) Burglary; 35418

(10) Theft and related crimes;	35419
(11) Forgery and fraudulent practices;	35420
(12) Fraud in the offering, sale, or purchase of securities;	35421
(13) Alteration of motor vehicle identification numbers;	35422
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	35423 35424
(15) Unlawful possession or use of destructive devices or explosives;	35425 35426
(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;	35427 35428 35429 35430 35431 35432 35433
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	35434 35435
(18) Violation of criminal provisions of Chapter 1331. of the Revised Code;	35436 35437
(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;	35438 35439 35440 35441
(20) Violation of Chapter 2909. of the Revised Code;	35442
(21) Any offense specified in Chapter 2921. of the Revised Code.	35443 35444
(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	35445 35446 35447

concern required to be listed in the disclosure statement or shown 35448  
to have a beneficial interest in the business of the applicant or 35449  
the permittee, other than an equity interest or debt liability, by 35450  
the investigation thereof for any of the offenses enumerated in 35451  
that division as disqualification criteria if that applicant has 35452  
affirmatively demonstrated rehabilitation of the individual or 35453  
business concern by a preponderance of the evidence. If any such 35454  
individual was convicted of any of the offenses so enumerated that 35455  
are felonies, a permit shall be denied unless five years have 35456  
elapsed since the individual was fully discharged from 35457  
imprisonment and parole for the offense, from a post-release 35458  
control sanction imposed under section 2967.28 of the Revised Code 35459  
for the offense, or imprisonment, probation, and parole for an 35460  
offense that was committed prior to the effective date of this 35461  
amendment. In determining whether an applicant has affirmatively 35462  
demonstrated rehabilitation, the director, ~~the hazardous waste~~ 35463  
~~facility board,~~ or the board of health shall request a 35464  
recommendation on the matter from the attorney general and shall 35465  
consider and base the determination on the following factors: 35466

(1) The nature and responsibilities of the position a 35467  
convicted individual would hold; 35468

(2) The nature and seriousness of the offense; 35469

(3) The circumstances under which the offense occurred; 35470

(4) The date of the offense; 35471

(5) The age of the individual when the offense was committed; 35472

(6) Whether the offense was an isolated or repeated incident; 35473

(7) Any social conditions that may have contributed to the 35474  
offense; 35475

(8) Any evidence of rehabilitation, including good conduct in 35476  
prison or in the community, counseling or psychiatric treatment 35477

received, acquisition of additional academic or vocational 35478  
schooling, successful participation in correctional work release 35479  
programs, or the recommendation of persons who have or have had 35480  
the applicant under their supervision; 35481

(9) In the instance of an applicant that is a business 35482  
concern, rehabilitation shall be established if the applicant has 35483  
implemented formal management controls to minimize and prevent the 35484  
occurrence of violations and activities that will or may result in 35485  
permit or license denial or revocation or if the applicant has 35486  
formalized those controls as a result of a revocation or denial of 35487  
a permit or license. Those controls may include, but are not 35488  
limited to, instituting environmental auditing programs to help 35489  
ensure the adequacy of internal systems to achieve, maintain, and 35490  
monitor compliance with applicable environmental laws and 35491  
standards or instituting an antitrust compliance auditing program 35492  
to help ensure full compliance with applicable antitrust laws. The 35493  
business concern shall prove by a preponderance of the evidence 35494  
that the management controls are effective in preventing the 35495  
violations that are the subject of concern. 35496

(D) Unless the director, ~~the hazardous waste facility board,~~ 35497  
or the board of health finds that the applicant has a history of 35498  
compliance with environmental laws in this state and other 35499  
jurisdictions and is presently in substantial compliance with, or 35500  
on a legally enforceable schedule that will result in compliance 35501  
with, environmental laws in this state and other jurisdictions-;i 35502

(E) With respect to the approval of a permit, if the director 35503  
~~or the hazardous waste facility board~~ determines that current 35504  
prosecutions or pending charges in any jurisdiction for any of the 35505  
offenses enumerated in division (B) of this section against any 35506  
individual or business concern required to be listed in the 35507  
disclosure statement or shown by the investigation to have a 35508  
beneficial interest in the business of the applicant other than an 35509

equity interest or debt liability are of such magnitude that they 35510  
prevent making the finding required under division (A) of this 35511  
section, provided that at the request of the applicant or the 35512  
individual or business concern charged, the director ~~or the~~ 35513  
~~hazardous waste facility board~~ shall defer decision upon the 35514  
application during the pendency of the charge. 35515

**Sec. 3734.46.** Notwithstanding the disqualification of the 35516  
applicant or permittee pursuant to this chapter, the director of 35517  
environmental protection, ~~hazardous waste facility board~~, or the 35518  
board of health may issue or renew a permit or license if the 35519  
applicant or permittee severs the interest of or affiliation with 35520  
the individual or business concern that would otherwise cause that 35521  
disqualification or may issue or renew a license on a temporary 35522  
basis for a period not to exceed six months if the director or the 35523  
board of health determines that the issuance or renewal of the 35524  
permit or license is necessitated by the public interest. 35525

**Sec. 3734.57.** (A) For the purposes of paying the state's 35526  
long-term operation costs or matching share for actions taken 35527  
under the "Comprehensive Environmental Response, Compensation, and 35528  
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 35529  
amended; paying the costs of measures for proper clean-up of sites 35530  
where polychlorinated biphenyls and substances, equipment, and 35531  
devices containing or contaminated with polychlorinated biphenyls 35532  
have been stored or disposed of; paying the costs of conducting 35533  
surveys or investigations of solid waste facilities or other 35534  
locations where it is believed that significant quantities of 35535  
hazardous waste were disposed of and for conducting enforcement 35536  
actions arising from the findings of such surveys or 35537  
investigations; paying the costs of acquiring and cleaning up, or 35538  
providing financial assistance for cleaning up, any hazardous 35539  
waste facility or solid waste facility containing significant 35540

quantities of hazardous waste, that constitutes an imminent and 35541  
substantial threat to public health or safety or the environment; 35542  
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 35543  
purposes of paying the costs of administering and enforcing the 35544  
laws pertaining to solid wastes, infectious wastes, and 35545  
construction and demolition debris, including, without limitation, 35546  
ground water evaluations related to solid wastes, infectious 35547  
wastes, and construction and demolition debris, under this chapter 35548  
and Chapter 3714. of the Revised Code and any rules adopted under 35549  
them, and paying a share of the administrative costs of the 35550  
environmental protection agency pursuant to section 3745.014 of 35551  
the Revised Code, the following fees are hereby levied on the 35552  
disposal of solid wastes in this state: 35553

(1) One dollar per ton on and after July 1, 1993; 35554

(2) An additional ~~seventy five cents~~ one dollar per ton on 35555  
and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 35556

The owner or operator of a solid waste disposal facility 35557  
shall collect the fees levied under this division as a trustee for 35558  
the state and shall prepare and file with the director of 35559  
environmental protection monthly returns indicating the total 35560  
tonnage of solid wastes received for disposal at the gate of the 35561  
facility and the total amount of the fees collected under this 35562  
division. Not later than thirty days after the last day of the 35563  
month to which such a return applies, the owner or operator shall 35564  
mail to the director the return for that month together with the 35565  
fees collected during that month as indicated on the return. The 35566  
owner or operator may request an extension of not more than thirty 35567  
days for filing the return and remitting the fees, provided that 35568  
the owner or operator has submitted such a request in writing to 35569  
the director together with a detailed description of why the 35570  
extension is requested, the director has received the request not 35571  
later than the day on which the return is required to be filed, 35572

and the director has approved the request. If the fees are not 35573  
remitted within sixty days after the last day of the month during 35574  
which they were collected, the owner or operator shall pay an 35575  
additional fifty per cent of the amount of the fees for each month 35576  
that they are late. 35577

One-half of the moneys remitted to the director under 35578  
division (A)(1) of this section shall be credited to the hazardous 35579  
waste facility management fund created in section 3734.18 of the 35580  
Revised Code, and one-half shall be credited to the hazardous 35581  
waste clean-up fund created in section 3734.28 of the Revised 35582  
Code. The moneys remitted to the director under division (A)(2) of 35583  
this section shall be credited to the solid waste fund, which is 35584  
hereby created in the state treasury. The environmental protection 35585  
agency shall use moneys in the solid waste fund only to pay the 35586  
costs of administering and enforcing the laws pertaining to solid 35587  
wastes, infectious wastes, and construction and demolition debris, 35588  
including, without limitation, ground water evaluations related to 35589  
solid wastes, infectious wastes, and construction and demolition 35590  
debris, under this chapter and Chapter 3714. of the Revised Code 35591  
and rules adopted under them and to pay a share of the 35592  
administrative costs of the environmental protection agency 35593  
pursuant to section 3745.014 of the Revised Code. 35594

The fees levied under this division and divisions (B) and (C) 35595  
of this section are in addition to all other applicable fees and 35596  
taxes and shall be added to any other fee or amount specified in a 35597  
contract that is charged by the owner or operator of a solid waste 35598  
disposal facility or to any other fee or amount that is specified 35599  
in a contract entered into on or after March 4, 1992, and that is 35600  
charged by a transporter of solid wastes. 35601

(B) For the purpose of preparing, revising, and implementing 35602  
the solid waste management plan of the county or joint solid waste 35603  
management district, including, without limitation, the 35604

development and implementation of solid waste recycling or 35605  
reduction programs; providing financial assistance to boards of 35606  
health within the district, if solid waste facilities are located 35607  
within the district, for the enforcement of this chapter and rules 35608  
adopted and orders and terms and conditions of permits, licenses, 35609  
and variances issued under it, other than the hazardous waste 35610  
provisions of this chapter and rules adopted and orders and terms 35611  
and conditions of permits issued under those provisions; providing 35612  
financial assistance to the county to defray the added costs of 35613  
maintaining roads and other public facilities and of providing 35614  
emergency and other public services resulting from the location 35615  
and operation of a solid waste facility within the county under 35616  
the district's approved solid waste management plan; paying the 35617  
costs incurred by boards of health for collecting and analyzing 35618  
water samples from public or private wells on lands adjacent to 35619  
solid waste facilities that are contained in the approved or 35620  
amended plan of the district; paying the costs of developing and 35621  
implementing a program for the inspection of solid wastes 35622  
generated outside the boundaries of this state that are disposed 35623  
of at solid waste facilities included in the district's approved 35624  
solid waste management plan or amended plan; providing financial 35625  
assistance to boards of health within the district for enforcing 35626  
laws prohibiting open dumping; providing financial assistance to 35627  
local law enforcement agencies within the district for enforcing 35628  
laws and ordinances prohibiting littering; providing financial 35629  
assistance to boards of health of health districts within the 35630  
district that are on the approved list under section 3734.08 of 35631  
the Revised Code for the training and certification required for 35632  
their employees responsible for solid waste enforcement by rules 35633  
adopted under division (L) of section 3734.02 of the Revised Code; 35634  
providing financial assistance to individual municipal 35635  
corporations and townships within the district to defray their 35636  
added costs of maintaining roads and other public facilities and 35637

of providing emergency and other public services resulting from 35638  
the location and operation within their boundaries of a 35639  
composting, energy or resource recovery, incineration, or 35640  
recycling facility that either is owned by the district or is 35641  
furnishing solid waste management facility or recycling services 35642  
to the district pursuant to a contract or agreement with the board 35643  
of county commissioners or directors of the district; and payment 35644  
of any expenses that are agreed to, awarded, or ordered to be paid 35645  
under section 3734.35 of the Revised Code and of any 35646  
administrative costs incurred pursuant to that section, the solid 35647  
waste management policy committee of a county or joint solid waste 35648  
management district may levy fees upon the following activities: 35649

(1) The disposal at a solid waste disposal facility located 35650  
in the district of solid wastes generated within the district; 35651

(2) The disposal at a solid waste disposal facility within 35652  
the district of solid wastes generated outside the boundaries of 35653  
the district, but inside this state; 35654

(3) The disposal at a solid waste disposal facility within 35655  
the district of solid wastes generated outside the boundaries of 35656  
this state. 35657

If any such fees are levied prior to January 1, 1994, fees 35658  
levied under division (B)(1) of this section always shall be equal 35659  
to one-half of the fees levied under division (B)(2) of this 35660  
section, and fees levied under division (B)(3) of this section, 35661  
which shall be in addition to fees levied under division (B)(2) of 35662  
this section, always shall be equal to fees levied under division 35663  
(B)(1) of this section, except as otherwise provided in this 35664  
division. The solid waste management plan of the county or joint 35665  
district approved under section 3734.521 or 3734.55 of the Revised 35666  
Code and any amendments to it, or the resolution adopted under 35667  
this division, as appropriate, shall establish the rates of the 35668  
fees levied under divisions (B)(1), (2), and (3) of this section, 35669

if any, and shall specify whether the fees are levied on the basis 35670  
of tons or cubic yards as the unit of measurement. Although the 35671  
fees under divisions (A)(1) and (2) of this section are levied on 35672  
the basis of tons as the unit of measurement, the solid waste 35673  
management plan of the district and any amendments to it or the 35674  
solid waste management policy committee in its resolution levying 35675  
fees under this division may direct that the fees levied under 35676  
those divisions be levied on the basis of cubic yards as the unit 35677  
of measurement based upon a conversion factor of three cubic yards 35678  
per ton generally or one cubic yard per ton for baled wastes if 35679  
the fees under divisions (B)(1) to (3) of this section are being 35680  
levied on the basis of cubic yards as the unit of measurement 35681  
under the plan, amended plan, or resolution. 35682

On and after January 1, 1994, the fee levied under division 35683  
(B)(1) of this section shall be not less than one dollar per ton 35684  
nor more than two dollars per ton, the fee levied under division 35685  
(B)(2) of this section shall be not less than two dollars per ton 35686  
nor more than four dollars per ton, and the fee levied under 35687  
division (B)(3) of this section shall be not more than the fee 35688  
levied under division (B)(1) of this section, except as otherwise 35689  
provided in this division and notwithstanding any schedule of 35690  
those fees established in the solid waste management plan of a 35691  
county or joint district approved under section 3734.55 of the 35692  
Revised Code or a resolution adopted and ratified under this 35693  
division that is in effect on that date. If the fee that a 35694  
district is levying under division (B)(1) of this section on that 35695  
date under its approved plan or such a resolution is less than one 35696  
dollar per ton, the fee shall be one dollar per ton on and after 35697  
January 1, 1994, and if the fee that a district is so levying 35698  
under that division exceeds two dollars per ton, the fee shall be 35699  
two dollars per ton on and after that date. If the fee that a 35700  
district is so levying under division (B)(2) of this section is 35701  
less than two dollars per ton, the fee shall be two dollars per 35702

ton on and after that date, and if the fee that the district is so 35703  
levying under that division exceeds four dollars per ton, the fee 35704  
shall be four dollars per ton on and after that date. On that 35705  
date, the fee levied by a district under division (B)(3) of this 35706  
section shall be equal to the fee levied under division (B)(1) of 35707  
this section. Except as otherwise provided in this division, the 35708  
fees established by the operation of this amendment shall remain 35709  
in effect until the district's resolution levying fees under this 35710  
division is amended or repealed in accordance with this division 35711  
to amend or abolish the schedule of fees, the schedule of fees is 35712  
amended or abolished in an amended plan of the district approved 35713  
under section 3734.521 or division (A) or (D) of section 3734.56 35714  
of the Revised Code, or the schedule of fees is amended or 35715  
abolished through an amendment to the district's plan under 35716  
division (E) of section 3734.56 of the Revised Code; the 35717  
notification of the amendment or abolishment of the fees has been 35718  
given in accordance with this division; and collection of the 35719  
amended fees so established commences, or collection of the fees 35720  
ceases, in accordance with this division. 35721

The solid waste management policy committee of a district 35722  
levying fees under divisions (B)(1) to (3) of this section on 35723  
October 29, 1993, under its solid waste management plan approved 35724  
under section 3734.55 of the Revised Code or a resolution adopted 35725  
and ratified under this division that are within the ranges of 35726  
rates prescribed by this amendment, by adoption of a resolution 35727  
not later than December 1, 1993, and without the necessity for 35728  
ratification of the resolution under this division, may amend 35729  
those fees within the prescribed ranges, provided that the 35730  
estimated revenues from the amended fees will not substantially 35731  
exceed the estimated revenues set forth in the district's budget 35732  
for calendar year 1994. Not later than seven days after the 35733  
adoption of such a resolution, the committee shall notify by 35734  
certified mail the owner or operator of each solid waste disposal 35735

facility that is required to collect the fees of the adoption of 35736  
the resolution and of the amount of the amended fees. Collection 35737  
of the amended fees shall take effect on the first day of the 35738  
first month following the month in which the notification is sent 35739  
to the owner or operator. The fees established in such a 35740  
resolution shall remain in effect until the district's resolution 35741  
levying fees that was adopted and ratified under this division is 35742  
amended or repealed, and the amendment or repeal of the resolution 35743  
is ratified, in accordance with this division, to amend or abolish 35744  
the fees, the schedule of fees is amended or abolished in an 35745  
amended plan of the district approved under section 3734.521 or 35746  
division (A) or (D) of section 3734.56 of the Revised Code, or the 35747  
schedule of fees is amended or abolished through an amendment to 35748  
the district's plan under division (E) of section 3734.56 of the 35749  
Revised Code; the notification of the amendment or abolishment of 35750  
the fees has been given in accordance with this division; and 35751  
collection of the amended fees so established commences, or 35752  
collection of the fees ceases, in accordance with this division. 35753

Prior to the approval of the solid waste management plan of 35754  
the district under section 3734.55 of the Revised Code, the solid 35755  
waste management policy committee of a district may levy fees 35756  
under this division by adopting a resolution establishing the 35757  
proposed amount of the fees. Upon adopting the resolution, the 35758  
committee shall deliver a copy of the resolution to the board of 35759  
county commissioners of each county forming the district and to 35760  
the legislative authority of each municipal corporation and 35761  
township under the jurisdiction of the district and shall prepare 35762  
and publish the resolution and a notice of the time and location 35763  
where a public hearing on the fees will be held. Upon adopting the 35764  
resolution, the committee shall deliver written notice of the 35765  
adoption of the resolution; of the amount of the proposed fees; 35766  
and of the date, time, and location of the public hearing to the 35767  
director and to the fifty industrial, commercial, or institutional 35768

generators of solid wastes within the district that generate the 35769  
largest quantities of solid wastes, as determined by the 35770  
committee, and to their local trade associations. The committee 35771  
shall make good faith efforts to identify those generators within 35772  
the district and their local trade associations, but the 35773  
nonprovision of notice under this division to a particular 35774  
generator or local trade association does not invalidate the 35775  
proceedings under this division. The publication shall occur at 35776  
least thirty days before the hearing. After the hearing, the 35777  
committee may make such revisions to the proposed fees as it 35778  
considers appropriate and thereafter, by resolution, shall adopt 35779  
the revised fee schedule. Upon adopting the revised fee schedule, 35780  
the committee shall deliver a copy of the resolution doing so to 35781  
the board of county commissioners of each county forming the 35782  
district and to the legislative authority of each municipal 35783  
corporation and township under the jurisdiction of the district. 35784  
Within sixty days after the delivery of a copy of the resolution 35785  
adopting the proposed revised fees by the policy committee, each 35786  
such board and legislative authority, by ordinance or resolution, 35787  
shall approve or disapprove the revised fees and deliver a copy of 35788  
the ordinance or resolution to the committee. If any such board or 35789  
legislative authority fails to adopt and deliver to the policy 35790  
committee an ordinance or resolution approving or disapproving the 35791  
revised fees within sixty days after the policy committee 35792  
delivered its resolution adopting the proposed revised fees, it 35793  
shall be conclusively presumed that the board or legislative 35794  
authority has approved the proposed revised fees. 35795

In the case of a county district or a joint district formed 35796  
by two or three counties, the committee shall declare the proposed 35797  
revised fees to be ratified as the fee schedule of the district 35798  
upon determining that the board of county commissioners of each 35799  
county forming the district has approved the proposed revised fees 35800  
and that the legislative authorities of a combination of municipal 35801

corporations and townships with a combined population within the 35802  
district comprising at least sixty per cent of the total 35803  
population of the district have approved the proposed revised 35804  
fees, provided that in the case of a county district, that 35805  
combination shall include the municipal corporation having the 35806  
largest population within the boundaries of the district, and 35807  
provided further that in the case of a joint district formed by 35808  
two or three counties, that combination shall include for each 35809  
county forming the joint district the municipal corporation having 35810  
the largest population within the boundaries of both the county in 35811  
which the municipal corporation is located and the joint district. 35812  
In the case of a joint district formed by four or more counties, 35813  
the committee shall declare the proposed revised fees to be 35814  
ratified as the fee schedule of the joint district upon 35815  
determining that the boards of county commissioners of a majority 35816  
of the counties forming the district have approved the proposed 35817  
revised fees; that, in each of a majority of the counties forming 35818  
the joint district, the proposed revised fees have been approved 35819  
by the municipal corporation having the largest population within 35820  
the county and the joint district; and that the legislative 35821  
authorities of a combination of municipal corporations and 35822  
townships with a combined population within the joint district 35823  
comprising at least sixty per cent of the total population of the 35824  
joint district have approved the proposed revised fees. 35825

For the purposes of this division, only the population of the 35826  
unincorporated area of a township shall be considered. For the 35827  
purpose of determining the largest municipal corporation within 35828  
each county under this division, a municipal corporation that is 35829  
located in more than one solid waste management district, but that 35830  
is under the jurisdiction of one county or joint solid waste 35831  
management district in accordance with division (A) of section 35832  
3734.52 of the Revised Code shall be considered to be within the 35833  
boundaries of the county in which a majority of the population of 35834

the municipal corporation resides. 35835

The committee may amend the schedule of fees levied pursuant 35836  
to a resolution or amended resolution adopted and ratified under 35837  
this division by adopting a resolution establishing the proposed 35838  
amount of the amended fees. The committee may abolish the fees 35839  
levied pursuant to such a resolution or amended resolution by 35840  
adopting a resolution proposing to repeal them. Upon adopting such 35841  
a resolution, the committee shall proceed to obtain ratification 35842  
of the resolution in accordance with this division. 35843

Not later than fourteen days after declaring the fees or 35844  
amended fees to be ratified under this division, the committee 35845  
shall notify by certified mail the owner or operator of each solid 35846  
waste disposal facility that is required to collect the fees of 35847  
the ratification and the amount of the fees. Collection of any 35848  
fees or amended fees ratified on or after March 24, 1992, shall 35849  
commence on the first day of the second month following the month 35850  
in which notification is sent to the owner or operator. 35851

Not later than fourteen days after declaring the repeal of 35852  
the district's schedule of fees to be ratified under this 35853  
division, the committee shall notify by certified mail the owner 35854  
or operator of each facility that is collecting the fees of the 35855  
repeal. Collection of the fees shall cease on the first day of the 35856  
second month following the month in which notification is sent to 35857  
the owner or operator. 35858

Not later than fourteen days after the director issues an 35859  
order approving a district's solid waste management plan under 35860  
section 3734.55 of the Revised Code or amended plan under division 35861  
(A) or (D) of section 3734.56 of the Revised Code that establishes 35862  
or amends a schedule of fees levied by the district, or the 35863  
ratification of an amendment to the district's approved plan or 35864  
amended plan under division (E) of section 3734.56 of the Revised 35865  
Code that establishes or amends a schedule of fees, as 35866

appropriate, the committee shall notify by certified mail the 35867  
owner or operator of each solid waste disposal facility that is 35868  
required to collect the fees of the approval of the plan or 35869  
amended plan, or the amendment to the plan, as appropriate, and 35870  
the amount of the fees or amended fees. In the case of an initial 35871  
or amended plan approved under section 3734.521 of the Revised 35872  
Code in connection with a change in district composition, other 35873  
than one involving the withdrawal of a county from a joint 35874  
district, that establishes or amends a schedule of fees levied 35875  
under divisions (B)(1) to (3) of this section by a district 35876  
resulting from the change, the committee, within fourteen days 35877  
after the change takes effect pursuant to division (G) of that 35878  
section, shall notify by certified mail the owner or operator of 35879  
each solid waste disposal facility that is required to collect the 35880  
fees that the change has taken effect and of the amount of the 35881  
fees or amended fees. Collection of any fees set forth in a plan 35882  
or amended plan approved by the director on or after April 16, 35883  
1993, or an amendment of a plan or amended plan under division (E) 35884  
of section 3734.56 of the Revised Code that is ratified on or 35885  
after April 16, 1993, shall commence on the first day of the 35886  
second month following the month in which notification is sent to 35887  
the owner or operator. 35888

Not later than fourteen days after the director issues an 35889  
order approving a district's plan under section 3734.55 of the 35890  
Revised Code or amended plan under division (A) or (D) of section 35891  
3734.56 of the Revised Code that abolishes the schedule of fees 35892  
levied under divisions (B)(1) to (3) of this section, or an 35893  
amendment to the district's approved plan or amended plan 35894  
abolishing the schedule of fees is ratified pursuant to division 35895  
(E) of section 3734.56 of the Revised Code, as appropriate, the 35896  
committee shall notify by certified mail the owner or operator of 35897  
each facility that is collecting the fees of the approval of the 35898  
plan or amended plan, or the amendment of the plan or amended 35899

plan, as appropriate, and the abolishment of the fees. In the case 35900  
of an initial or amended plan approved under section 3734.521 of 35901  
the Revised Code in connection with a change in district 35902  
composition, other than one involving the withdrawal of a county 35903  
from a joint district, that abolishes the schedule of fees levied 35904  
under divisions (B)(1) to (3) of this section by a district 35905  
resulting from the change, the committee, within fourteen days 35906  
after the change takes effect pursuant to division (G) of that 35907  
section, shall notify by certified mail the owner or operator of 35908  
each solid waste disposal facility that is required to collect the 35909  
fees that the change has taken effect and of the abolishment of 35910  
the fees. Collection of the fees shall cease on the first day of 35911  
the second month following the month in which notification is sent 35912  
to the owner or operator. 35913

Except as otherwise provided in this division, if the 35914  
schedule of fees that a district is levying under divisions (B)(1) 35915  
to (3) of this section pursuant to a resolution or amended 35916  
resolution adopted and ratified under this division, the solid 35917  
waste management plan of the district approved under section 35918  
3734.55 of the Revised Code, an amended plan approved under 35919  
division (A) or (D) of section 3734.56 of the Revised Code, or an 35920  
amendment to the district's approved plan or amended plan under 35921  
division (E) of section 3734.56 of the Revised Code, is amended by 35922  
the adoption and ratification of an amendment to the resolution or 35923  
amended resolution or an amendment of the district's approved plan 35924  
or amended plan, the fees in effect immediately prior to the 35925  
approval of the plan or the amendment of the resolution, amended 35926  
resolution, plan, or amended plan, as appropriate, shall continue 35927  
to be collected until collection of the amended fees commences 35928  
pursuant to this division. 35929

If, in the case of a change in district composition involving 35930  
the withdrawal of a county from a joint district, the director 35931

completes the actions required under division (G)(1) or (3) of 35932  
section 3734.521 of the Revised Code, as appropriate, forty-five 35933  
days or more before the beginning of a calendar year, the policy 35934  
committee of each of the districts resulting from the change that 35935  
obtained the director's approval of an initial or amended plan in 35936  
connection with the change, within fourteen days after the 35937  
director's completion of the required actions, shall notify by 35938  
certified mail the owner or operator of each solid waste disposal 35939  
facility that is required to collect the district's fees that the 35940  
change is to take effect on the first day of January immediately 35941  
following the issuance of the notice and of the amount of the fees 35942  
or amended fees levied under divisions (B)(1) to (3) of this 35943  
section pursuant to the district's initial or amended plan as so 35944  
approved or, if appropriate, the abolishment of the district's 35945  
fees by that initial or amended plan. Collection of any fees set 35946  
forth in such a plan or amended plan shall commence on the first 35947  
day of January immediately following the issuance of the notice. 35948  
If such an initial or amended plan abolishes a schedule of fees, 35949  
collection of the fees shall cease on that first day of January. 35950

If, in the case of a change in district composition involving 35951  
the withdrawal of a county from a joint district, the director 35952  
completes the actions required under division (G)(1) or (3) of 35953  
section 3734.521 of the Revised Code, as appropriate, less than 35954  
forty-five days before the beginning of a calendar year, the 35955  
director, on behalf of each of the districts resulting from the 35956  
change that obtained the director's approval of an initial or 35957  
amended plan in connection with the change proceedings, shall 35958  
notify by certified mail the owner or operator of each solid waste 35959  
disposal facility that is required to collect the district's fees 35960  
that the change is to take effect on the first day of January 35961  
immediately following the mailing of the notice and of the amount 35962  
of the fees or amended fees levied under divisions (B)(1) to (3) 35963  
of this section pursuant to the district's initial or amended plan 35964

as so approved or, if appropriate, the abolishment of the 35965  
district's fees by that initial or amended plan. Collection of any 35966  
fees set forth in such a plan or amended plan shall commence on 35967  
the first day of the second month following the month in which 35968  
notification is sent to the owner or operator. If such an initial 35969  
or amended plan abolishes a schedule of fees, collection of the 35970  
fees shall cease on the first day of the second month following 35971  
the month in which notification is sent to the owner or operator. 35972

In the case of a change in district composition, the schedule 35973  
of fees that the former districts that existed prior to the change 35974  
were levying under divisions (B)(1) to (3) of this section 35975  
pursuant to a resolution or amended resolution adopted and 35976  
ratified under this division, the solid waste management plan of a 35977  
former district approved under section 3734.521 or 3734.55 of the 35978  
Revised Code, an amended plan approved under section 3734.521 or 35979  
division (A) or (D) of section 3734.56 of the Revised Code, or an 35980  
amendment to a former district's approved plan or amended plan 35981  
under division (E) of section 3734.56 of the Revised Code, and 35982  
that were in effect on the date that the director completed the 35983  
actions required under division (G)(1) or (3) of section 3734.521 35984  
of the Revised Code shall continue to be collected until the 35985  
collection of the fees or amended fees of the districts resulting 35986  
from the change is required to commence, or if an initial or 35987  
amended plan of a resulting district abolishes a schedule of fees, 35988  
collection of the fees is required to cease, under this division. 35989  
Moneys so received from the collection of the fees of the former 35990  
districts shall be divided among the resulting districts in 35991  
accordance with division (B) of section 343.012 of the Revised 35992  
Code and the agreements entered into under division (B) of section 35993  
343.01 of the Revised Code to establish the former and resulting 35994  
districts and any amendments to those agreements. 35995

For the purposes of the provisions of division (B) of this 35996

section establishing the times when newly established or amended 35997  
fees levied by a district are required to commence and the 35998  
collection of fees that have been amended or abolished is required 35999  
to cease, "fees" or "schedule of fees" includes, in addition to 36000  
fees levied under divisions (B)(1) to (3) of this section, those 36001  
levied under section 3734.573 or 3734.574 of the Revised Code. 36002

(C) For the purposes of defraying the added costs to a 36003  
municipal corporation or township of maintaining roads and other 36004  
public facilities and of providing emergency and other public 36005  
services, and compensating a municipal corporation or township for 36006  
reductions in real property tax revenues due to reductions in real 36007  
property valuations resulting from the location and operation of a 36008  
solid waste disposal facility within the municipal corporation or 36009  
township, a municipal corporation or township in which such a 36010  
solid waste disposal facility is located may levy a fee of not 36011  
more than twenty-five cents per ton on the disposal of solid 36012  
wastes at a solid waste disposal facility located within the 36013  
boundaries of the municipal corporation or township regardless of 36014  
where the wastes were generated. 36015

The legislative authority of a municipal corporation or 36016  
township may levy fees under this division by enacting an 36017  
ordinance or adopting a resolution establishing the amount of the 36018  
fees. Upon so doing the legislative authority shall mail a 36019  
certified copy of the ordinance or resolution to the board of 36020  
county commissioners or directors of the county or joint solid 36021  
waste management district in which the municipal corporation or 36022  
township is located or, if a regional solid waste management 36023  
authority has been formed under section 343.011 of the Revised 36024  
Code, to the board of trustees of that regional authority, the 36025  
owner or operator of each solid waste disposal facility in the 36026  
municipal corporation or township that is required to collect the 36027  
fee by the ordinance or resolution, and the director of 36028

environmental protection. Although the fees levied under this 36029  
division are levied on the basis of tons as the unit of 36030  
measurement, the legislative authority, in its ordinance or 36031  
resolution levying the fees under this division, may direct that 36032  
the fees be levied on the basis of cubic yards as the unit of 36033  
measurement based upon a conversion factor of three cubic yards 36034  
per ton generally or one cubic yard per ton for baled wastes. 36035

Not later than five days after enacting an ordinance or 36036  
adopting a resolution under this division, the legislative 36037  
authority shall so notify by certified mail the owner or operator 36038  
of each solid waste disposal facility that is required to collect 36039  
the fee. Collection of any fee levied on or after March 24, 1992, 36040  
shall commence on the first day of the second month following the 36041  
month in which notification is sent to the owner or operator. 36042

(D)(1) The fees levied under divisions (A), (B), and (C) of 36043  
this section do not apply to the disposal of solid wastes that: 36044

(a) Are disposed of at a facility owned by the generator of 36045  
the wastes when the solid waste facility exclusively disposes of 36046  
solid wastes generated at one or more premises owned by the 36047  
generator regardless of whether the facility is located on a 36048  
premises where the wastes are generated; 36049

(b) Are disposed of at facilities that exclusively dispose of 36050  
wastes that are generated from the combustion of coal, or from the 36051  
combustion of primarily coal in combination with scrap tires, that 36052  
is not combined in any way with garbage at one or more premises 36053  
owned by the generator. 36054

(2) Except as provided in section 3734.571 of the Revised 36055  
Code, any fees levied under division (B)(1) of this section apply 36056  
to solid wastes originating outside the boundaries of a county or 36057  
joint district that are covered by an agreement for the joint use 36058  
of solid waste facilities entered into under section 343.02 of the 36059

Revised Code by the board of county commissioners or board of 36060  
directors of the county or joint district where the wastes are 36061  
generated and disposed of. 36062

(3) When solid wastes, other than solid wastes that consist 36063  
of scrap tires, are burned in a disposal facility that is an 36064  
incinerator or energy recovery facility, the fees levied under 36065  
divisions (A), (B), and (C) of this section shall be levied upon 36066  
the disposal of the fly ash and bottom ash remaining after burning 36067  
of the solid wastes and shall be collected by the owner or 36068  
operator of the sanitary landfill where the ash is disposed of. 36069

(4) When solid wastes are delivered to a solid waste transfer 36070  
facility, the fees levied under divisions (A), (B), and (C) of 36071  
this section shall be levied upon the disposal of solid wastes 36072  
transported off the premises of the transfer facility for disposal 36073  
and shall be collected by the owner or operator of the solid waste 36074  
disposal facility where the wastes are disposed of. 36075

(5) The fees levied under divisions (A), (B), and (C) of this 36076  
section do not apply to sewage sludge that is generated by a waste 36077  
water treatment facility holding a national pollutant discharge 36078  
elimination system permit and that is disposed of through 36079  
incineration, land application, or composting or at another 36080  
resource recovery or disposal facility that is not a landfill. 36081

(6) The fees levied under divisions (A), (B), and (C) of this 36082  
section do not apply to solid wastes delivered to a solid waste 36083  
composting facility for processing. When any unprocessed solid 36084  
waste or compost product is transported off the premises of a 36085  
composting facility and disposed of at a landfill, the fees levied 36086  
under divisions (A), (B), and (C) of this section shall be 36087  
collected by the owner or operator of the landfill where the 36088  
unprocessed waste or compost product is disposed of. 36089

(7) When solid wastes that consist of scrap tires are 36090

processed at a scrap tire recovery facility, the fees levied under 36091  
divisions (A), (B), and (C) of this section shall be levied upon 36092  
the disposal of the fly ash and bottom ash or other solid wastes 36093  
remaining after the processing of the scrap tires and shall be 36094  
collected by the owner or operator of the solid waste disposal 36095  
facility where the ash or other solid wastes are disposed of. 36096

(E) The fees levied under divisions (B) and (C) of this 36097  
section shall be collected by the owner or operator of the solid 36098  
waste disposal facility where the wastes are disposed of as a 36099  
trustee for the county or joint district and municipal corporation 36100  
or township where the wastes are disposed of. Moneys from the fees 36101  
levied under division (B) of this section shall be forwarded to 36102  
the board of county commissioners or board of directors of the 36103  
district in accordance with rules adopted under division (H) of 36104  
this section. Moneys from the fees levied under division (C) of 36105  
this section shall be forwarded to the treasurer or such other 36106  
officer of the municipal corporation as, by virtue of the charter, 36107  
has the duties of the treasurer or to the clerk of the township, 36108  
as appropriate, in accordance with those rules. 36109

(F) Moneys received by the treasurer or such other officer of 36110  
the municipal corporation under division (E) of this section shall 36111  
be paid into the general fund of the municipal corporation. Moneys 36112  
received by the clerk of the township under that division shall be 36113  
paid into the general fund of the township. The treasurer or such 36114  
other officer of the municipal corporation or the clerk, as 36115  
appropriate, shall maintain separate records of the moneys 36116  
received from the fees levied under division (C) of this section. 36117

(G) Moneys received by the board of county commissioners or 36118  
board of directors under division (E) of this section or section 36119  
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 36120  
shall be paid to the county treasurer, or other official acting in 36121  
a similar capacity under a county charter, in a county district or 36122

to the county treasurer or other official designated by the board 36123  
of directors in a joint district and kept in a separate and 36124  
distinct fund to the credit of the district. If a regional solid 36125  
waste management authority has been formed under section 343.011 36126  
of the Revised Code, moneys received by the board of trustees of 36127  
that regional authority under division (E) of this section shall 36128  
be kept by the board in a separate and distinct fund to the credit 36129  
of the district. Moneys in the special fund of the county or joint 36130  
district arising from the fees levied under division (B) of this 36131  
section and the fee levied under division (A) of section 3734.573 36132  
of the Revised Code shall be expended by the board of county 36133  
commissioners or directors of the district in accordance with the 36134  
district's solid waste management plan or amended plan approved 36135  
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 36136  
exclusively for the following purposes: 36137

(1) Preparation of the solid waste management plan of the 36138  
district under section 3734.54 of the Revised Code, monitoring 36139  
implementation of the plan, and conducting the periodic review and 36140  
amendment of the plan required by section 3734.56 of the Revised 36141  
Code by the solid waste management policy committee; 36142

(2) Implementation of the approved solid waste management 36143  
plan or amended plan of the district, including, without 36144  
limitation, the development and implementation of solid waste 36145  
recycling or reduction programs; 36146

(3) Providing financial assistance to boards of health within 36147  
the district, if solid waste facilities are located within the 36148  
district, for enforcement of this chapter and rules, orders, and 36149  
terms and conditions of permits, licenses, and variances adopted 36150  
or issued under it, other than the hazardous waste provisions of 36151  
this chapter and rules adopted and orders and terms and conditions 36152  
of permits issued under those provisions; 36153

(4) Providing financial assistance to each county within the 36154

district to defray the added costs of maintaining roads and other 36155  
public facilities and of providing emergency and other public 36156  
services resulting from the location and operation of a solid 36157  
waste facility within the county under the district's approved 36158  
solid waste management plan or amended plan; 36159

(5) Pursuant to contracts entered into with boards of health 36160  
within the district, if solid waste facilities contained in the 36161  
district's approved plan or amended plan are located within the 36162  
district, for paying the costs incurred by those boards of health 36163  
for collecting and analyzing samples from public or private water 36164  
wells on lands adjacent to those facilities; 36165

(6) Developing and implementing a program for the inspection 36166  
of solid wastes generated outside the boundaries of this state 36167  
that are disposed of at solid waste facilities included in the 36168  
district's approved solid waste management plan or amended plan; 36169

(7) Providing financial assistance to boards of health within 36170  
the district for the enforcement of section 3734.03 of the Revised 36171  
Code or to local law enforcement agencies having jurisdiction 36172  
within the district for enforcing anti-littering laws and 36173  
ordinances; 36174

(8) Providing financial assistance to boards of health of 36175  
health districts within the district that are on the approved list 36176  
under section 3734.08 of the Revised Code to defray the costs to 36177  
the health districts for the participation of their employees 36178  
responsible for enforcement of the solid waste provisions of this 36179  
chapter and rules adopted and orders and terms and conditions of 36180  
permits, licenses, and variances issued under those provisions in 36181  
the training and certification program as required by rules 36182  
adopted under division (L) of section 3734.02 of the Revised Code; 36183

(9) Providing financial assistance to individual municipal 36184  
corporations and townships within the district to defray their 36185

added costs of maintaining roads and other public facilities and 36186  
of providing emergency and other public services resulting from 36187  
the location and operation within their boundaries of a 36188  
composting, energy or resource recovery, incineration, or 36189  
recycling facility that either is owned by the district or is 36190  
furnishing solid waste management facility or recycling services 36191  
to the district pursuant to a contract or agreement with the board 36192  
of county commissioners or directors of the district; 36193

(10) Payment of any expenses that are agreed to, awarded, or 36194  
ordered to be paid under section 3734.35 of the Revised Code and 36195  
of any administrative costs incurred pursuant to that section. In 36196  
the case of a joint solid waste management district, if the board 36197  
of county commissioners of one of the counties in the district is 36198  
negotiating on behalf of affected communities, as defined in that 36199  
section, in that county, the board shall obtain the approval of 36200  
the board of directors of the district in order to expend moneys 36201  
for administrative costs incurred. 36202

Prior to the approval of the district's solid waste 36203  
management plan under section 3734.55 of the Revised Code, moneys 36204  
in the special fund of the district arising from the fees shall be 36205  
expended for those purposes in the manner prescribed by the solid 36206  
waste management policy committee by resolution. 36207

Notwithstanding division (G)(6) of this section as it existed 36208  
prior to October 29, 1993, or any provision in a district's solid 36209  
waste management plan prepared in accordance with division 36210  
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 36211  
prior to that date, any moneys arising from the fees levied under 36212  
division (B)(3) of this section prior to January 1, 1994, may be 36213  
expended for any of the purposes authorized in divisions (G)(1) to 36214  
(10) of this section. 36215

(H) The director shall adopt rules in accordance with Chapter 36216  
119. of the Revised Code prescribing procedures for collecting and 36217

forwarding the fees levied under divisions (B) and (C) of this 36218  
section to the boards of county commissioners or directors of 36219  
county or joint solid waste management districts and to the 36220  
treasurers or other officers of municipal corporations or to the 36221  
clerks of townships. The rules also shall prescribe the dates for 36222  
forwarding the fees to the boards and officials and may prescribe 36223  
any other requirements the director considers necessary or 36224  
appropriate to implement and administer divisions (A), (B), and 36225  
(C) of this section. Collection of the fees levied under division 36226  
(A)(1) of this section shall commence on July 1, 1993. Collection 36227  
of the fees levied under division (A)(2) of this section shall 36228  
commence on January 1, 1994. 36229

**Sec. 3735.27.** (A) Whenever the director of development has 36230  
determined that there is need for a housing authority in any 36231  
portion of any county that comprises two or more political 36232  
subdivisions or portions ~~thereof~~ of two or more political 36233  
subdivisions but is less than all the territory within the county, 36234  
a metropolitan housing authority shall be declared to exist, and 36235  
the territorial limits ~~thereof~~ of the authority shall be defined, 36236  
by a letter from the director. The director shall issue a 36237  
determination from the department of development declaring that 36238  
there is need for a housing authority within ~~such~~ those 36239  
territorial limits after finding either of the following: 36240

(1) Unsanitary or unsafe inhabited housing accommodations 36241  
exist in ~~such~~ that area; 36242

(2) There is a shortage of safe and sanitary housing 36243  
accommodations in ~~such~~ that area available to persons who lack the 36244  
amount of income ~~which~~ that is necessary, as determined by the 36245  
director, to enable them, without financial assistance, to live in 36246  
decent, safe, and sanitary dwellings without congestion. 36247

In determining whether dwelling accommodations are unsafe or 36248

unsanitary, the director may take into consideration the degree of 36249  
congestion, the percentage of land coverage, the light, air, 36250  
space, and access available to the inhabitants of ~~such the~~ 36251  
dwelling accommodations, the size and arrangement of ~~the~~ rooms, 36252  
the sanitary facilities, and the extent to which conditions exist 36253  
in ~~such buildings which~~ the dwelling accomodations that endanger 36254  
life or property by fire or other causes. 36255

The territorial limits of a metropolitan housing authority, 36256  
as defined by the director, under this division shall be fixed for 36257  
~~such the~~ authority upon proof of a letter from the director 36258  
declaring the need for ~~such the~~ authority to function in those 36259  
territorial limits. Any such letter from the director, any 36260  
certificate of determination issued by the director, and any 36261  
certificate of appointment of members of the authority shall be 36262  
admissible in evidence in any suit, action, or proceeding. 36263

A certified copy of the letter from the director, declaring 36264  
the existence of a metropolitan housing authority and ~~boundaries~~ 36265  
the territorial limits of a ~~housing authority~~ its district, shall 36266  
be immediately forwarded to each appointing authority. A 36267  
metropolitan housing authority shall consist of ~~five~~ members, who 36268  
~~shall be~~ are residents of the territory ~~embraced~~ in ~~such~~ 36269  
~~metropolitan housing authority district~~ which they serve. 36270

(B) Except as otherwise provided in division (C), (D), or (E) 36271  
of this section, one member shall be appointed by the probate 36272  
court, one member by the court of common pleas, one member by the 36273  
board of county commissioners, and two members by the chief 36274  
executive officer of the most populous city in the ~~territory~~ 36275  
~~included in the~~ district, in accordance with the last preceding 36276  
federal census. At the time of the initial appointment of the 36277  
authority, the member appointed by the probate court shall be 36278  
appointed for a period of four years, the ~~appointee of~~ member 36279  
appointed by the court of common pleas shall be appointed for 36280

three years, the ~~appointee of~~ member appointed by the board of 36281  
county commissioners shall be appointed for two years, one 36282  
~~appointee of the~~ member appointed by the chief executive officer 36283  
of the most populous city in the district shall be appointed for 36284  
one year, and ~~one appointee of the~~ other member appointed by the 36285  
chief executive officer of the most populous city in the district 36286  
shall be appointed for five years. Thereafter, all members of the 36287  
authority shall be appointed for five-year terms, and vacancies 36288  
due to expired terms shall be filled ~~by the same appointing powers~~ 36289  
in the manner provided in the original appointments. 36290

(C) For any metropolitan housing authority district that 36291  
contained, as of the 1990 federal census, a population of at least 36292  
one million, two members of the authority shall be appointed by 36293  
the ~~municipal~~ legislative authority of the most populous city in 36294  
the ~~territory included in the~~ district, two members shall be 36295  
appointed by the chief executive officer of the most populous city 36296  
in the ~~territory included in the~~ district, and one member shall be 36297  
appointed by the chief executive officer, with the approval of the 36298  
~~municipal~~ legislative authority, of the city in the district ~~which~~ 36299  
that has the second highest number of housing units owned or 36300  
managed by the authority. 36301

At the time of the initial appointment of the authority, one 36302  
member appointed by the ~~municipal~~ legislative authority of the 36303  
most populous city in the ~~territory included in the~~ district shall 36304  
be appointed for three years, and one such member shall be 36305  
appointed for one year; the ~~appointee of~~ member appointed by the 36306  
chief executive officer of the city with the second highest number 36307  
of housing units owned or managed by the authority shall be 36308  
appointed, with the approval of the ~~municipal~~ legislative 36309  
authority, for three years; and one appointee of member appointed 36310  
by the chief executive officer of the most populous city in the 36311  
district shall be appointed for three years, and one such member 36312

shall be appointed for one year. Thereafter, all members of the 36313  
authority shall be appointed for three-year terms, and any vacancy 36314  
shall be filled by the same appointing power that made the initial 36315  
appointment. At the expiration of the term of any member appointed 36316  
by the chief executive officer of the most populous city in the 36317  
~~territory included in the~~ district prior to March 15, 1983, the 36318  
chief executive officer of the most populous city in the district 36319  
shall fill the vacancy by appointment for a three-year term. At 36320  
the expiration of the term of any member appointed by the board of 36321  
county commissioners prior to March 15, 1983, the chief executive 36322  
officer of the city in the district with the second highest number 36323  
of housing units owned or managed by the authority shall, with the 36324  
approval of the municipal legislative authority, fill the vacancy 36325  
by appointment for a three-year term. At the expiration of the 36326  
term of any member appointed prior to March 15, 1983, by the court 36327  
of common pleas or the probate court, the legislative authority of 36328  
the most populous city in the ~~territory included in the~~ district 36329  
shall fill the vacancy by appointment for a three-year term. 36330

After March 15, 1983, at least one of the members appointed 36331  
by the chief executive officer of the most populous city shall be 36332  
a resident of a dwelling unit owned or managed by the ~~housing~~ 36333  
authority. At least one of the initial appointments by the chief 36334  
executive officer of the most populous city, after March 15, 1983, 36335  
shall be a resident of a dwelling unit owned or managed by the 36336  
~~housing~~ authority. Thereafter, any member appointed by the chief 36337  
executive officer of the most populous city for the term 36338  
established by this initial appointment, or for any succeeding 36339  
term ~~thereof~~, shall be a person who resides in a dwelling unit 36340  
owned or managed by the ~~housing~~ authority. If there is an elected, 36341  
representative body of all residents of the ~~housing~~ authority, 36342  
~~then~~ the chief executive officer of the most populous city shall, 36343  
whenever there is a vacancy in this resident term, provide written 36344  
notice of the vacancy to the representative body. If the 36345

representative body submits to the chief executive officer of the 36346  
most populous city, in writing and within sixty days after the 36347  
date on which it was notified of the vacancy, the names of at 36348  
least five residents of the ~~housing~~ authority who are willing and 36349  
qualified to serve as a member, ~~then~~ the chief executive officer 36350  
of the most populous city shall appoint to the resident term one 36351  
of the residents recommended by the representative body. At no 36352  
time shall residents constitute a majority of the members of the 36353  
authority. 36354

(D)(1) For any metropolitan housing authority district 36355  
located in a county that had, as of the 2000 federal census, a 36356  
population of at least four hundred thousand and no city with a 36357  
population greater than thirty per cent of the total population of 36358  
the county, one member of the authority shall be appointed by the 36359  
probate court, one member shall be appointed by the court of 36360  
common pleas, one member shall be appointed by the chief executive 36361  
officer of the most populous city in the district, and two members 36362  
shall be appointed by the board of county commissioners. 36363

(2) At the time of the initial appointment of a metropolitan 36364  
housing authority pursuant to this division, the member appointed 36365  
by the probate court shall be appointed for a period of four 36366  
years, the member appointed by the court of common pleas shall be 36367  
appointed for three years, the member appointed by the chief 36368  
executive officer of the most populous city shall be appointed for 36369  
two years, one member appointed by the board of county 36370  
commissioners shall be appointed for one year, and the other 36371  
member appointed by the board of county commissioners shall be 36372  
appointed for five years. Thereafter, all members of the authority 36373  
shall be appointed for five-year terms, with each term ending on 36374  
the same day of the same month as the term that it succeeds. 36375  
Vacancies shall be filled in the manner provided in the original 36376  
appointments. Any member appointed to fill a vacancy occurring 36377

prior to the expiration of the term shall hold office as a member 36378  
for the remainder of that term. 36379

(E)(1) An additional two members shall be appointed to the 36380  
metropolitan housing authority in any district that has three 36381  
hundred or more assisted housing units and that does not have at 36382  
least one resident as a member of its authority. For the purposes 36383  
of this section an "assisted unit" is a housing unit owned or 36384  
operated by the housing authority or a unit in which the occupants 36385  
receive tenant-based housing assistance through the federal 36386  
section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is 36387  
a person who lives in an assisted housing unit. 36388

(2) The chief executive officer of the most populous city in 36389  
the district shall appoint an additional member who is a resident 36390  
for an initial term of five years. The board of county 36391  
commissioners shall appoint the other additional member, who need 36392  
not be a resident, for an initial term of three years. After the 36393  
initial term, the terms of both members shall be five years and 36394  
vacancies shall be filled in the manner provided in the original 36395  
appointments. Any member appointed to fill a vacancy occurring 36396  
prior to the expiration of the term for which the member's 36397  
predecessor was appointed shall hold office as a member for the 36398  
remainder of that term. 36399

(3) A member appointed as a resident member who no longer 36400  
qualifies as a resident shall be deemed unable to serve and 36401  
another resident member shall be appointed to serve the unexpired 36402  
portion of that term. 36403

(F) Public officials, other than the officers having the 36404  
appointing power under this section, shall be eligible to serve as 36405  
members, officers, or employees of the a metropolitan housing 36406  
authority notwithstanding any statute, charter, or law to the 36407  
contrary. Not more than two such public officials shall be members 36408  
of the authority at any one time. 36409

All members of ~~such housing~~ an authority shall serve without 36410  
compensation but shall be entitled to be reimbursed for all 36411  
necessary expenses incurred. ~~After such~~ 36412

After a metropolitan housing authority district has been is 36413  
formed, the director may enlarge the territory within ~~such the~~ 36414  
district to include other political subdivisions, or portions 36415  
~~thereof of other political subdivisions~~, but the territorial 36416  
limits of ~~which the district~~ shall be less than that of the 36417  
county. 36418

**Sec. 3735.67.** (A) The owner of real property located in a 36419  
community reinvestment area and eligible for exemption from 36420  
taxation under a resolution adopted pursuant to section 3735.66 of 36421  
the Revised Code may file an application for an exemption from 36422  
real property taxation of a percentage of the assessed valuation 36423  
of a new structure or remodeling, completed after the effective 36424  
date of the resolution adopted pursuant to section 3735.66 of the 36425  
Revised Code, with the housing officer designated pursuant to 36426  
section 3735.66 of the Revised Code for the community reinvestment 36427  
area in which the property is located. If any part of the new 36428  
structure or remodeling that would be exempted is of real property 36429  
to be used for commercial or industrial purposes, the legislative 36430  
authority and the owner of the property shall enter into a written 36431  
agreement pursuant to section 3735.671 of the Revised Code prior 36432  
to commencement of construction or remodeling; if such an 36433  
agreement is subject to approval by the board of education of the 36434  
school district within the territory of which the property is or 36435  
will be located, the agreement shall not be formally approved by 36436  
the legislative authority until the board of education approves 36437  
the agreement in the manner prescribed by that section. 36438

(B) The housing officer shall verify the construction of the 36439  
new structure or the cost of the remodeling and the facts asserted 36440

in the application. The housing officer shall determine whether 36441  
the construction or the cost of the remodeling meets the 36442  
requirements for an exemption under this section. In cases 36443  
involving a structure of historical or architectural significance, 36444  
the housing officer shall not determine whether the remodeling 36445  
meets the requirements for a tax exemption unless the 36446  
appropriateness of the remodeling has been certified, in writing, 36447  
by the society, association, agency, or legislative authority that 36448  
has designated the structure or by any organization or person 36449  
authorized, in writing, by such society, association, agency, or 36450  
legislative authority to certify the appropriateness of the 36451  
remodeling. 36452

(C) If the construction or remodeling meets the requirements 36453  
for exemption, the housing officer shall forward the application 36454  
to the county auditor with a certification as to the division of 36455  
this section under which the exemption is granted, and the period 36456  
and percentage of the exemption as determined by the legislative 36457  
authority pursuant to that division. If the construction or 36458  
remodeling is of commercial or industrial property and the 36459  
legislative authority is not required to certify a copy of a 36460  
resolution under section 3735.671 of the Revised Code, the housing 36461  
officer shall comply with the notice requirements prescribed under 36462  
section 5709.83 of the Revised Code, unless the board has adopted 36463  
a resolution under that section waiving its right to receive such 36464  
a notice. 36465

(D) The tax exemption shall first apply in the year the 36466  
construction or remodeling would first be taxable but for this 36467  
section. In the case of remodeling that qualifies for exemption, a 36468  
percentage, not to exceed one hundred per cent, of the amount by 36469  
which the remodeling increased the assessed value of the structure 36470  
shall be exempted from real property taxation. In the case of 36471  
construction of a structure that qualifies for exemption, a 36472

percentage, not to exceed one hundred per cent, of the assessed 36473  
value of the structure shall be exempted from real property 36474  
taxation. In either case, the percentage shall be the percentage 36475  
set forth in the agreement if the structure or remodeling is to be 36476  
used for commercial or industrial purposes, or the percentage set 36477  
forth in the resolution describing the community reinvestment area 36478  
if the structure or remodeling is to be used for residential 36479  
purposes. 36480

The construction of new structures and the remodeling of 36481  
existing structures are hereby declared to be a public purpose for 36482  
which exemptions from real property taxation may be granted for 36483  
the following periods: 36484

(1) For every dwelling containing not more than two family 36485  
units located within the same community reinvestment area and upon 36486  
which the cost of remodeling is at least two thousand five hundred 36487  
dollars, a period to be determined by the legislative authority 36488  
adopting the resolution describing the community reinvestment area 36489  
where the dwelling is located, but not exceeding ten years; 36490

(2) For every dwelling containing more than two units and 36491  
commercial or industrial properties, located within the same 36492  
community reinvestment area, upon which the cost of remodeling is 36493  
at least five thousand dollars, a period to be determined by the 36494  
legislative authority adopting the resolution, but not exceeding 36495  
twelve years; 36496

(3) For construction of every dwelling, and commercial or 36497  
industrial structure located within the same community 36498  
reinvestment area, a period to be determined by the legislative 36499  
authority adopting the resolution, but not exceeding fifteen 36500  
years. 36501

(E) Any person, board, or officer authorized by section 36502  
5715.19 of the Revised Code to file complaints with the county 36503

board of revision may file a complaint with the housing officer 36504  
challenging the continued exemption of any property granted an 36505  
exemption under this section. A complaint against exemption shall 36506  
be filed prior to the thirty-first day of December of the tax year 36507  
for which taxation of the property is requested. The housing 36508  
officer shall determine whether the property continues to meet the 36509  
requirements for exemption and shall certify the housing officer's 36510  
findings to the complainant. If the housing officer determines 36511  
that the property does not meet the requirements for exemption, 36512  
the housing officer shall notify the county auditor, who shall 36513  
correct the tax list and duplicate accordingly. 36514

**Sec. 3735.671.** (A) If construction or remodeling of 36515  
commercial or industrial property is to be exempted from taxation 36516  
pursuant to section 3735.67 of the Revised Code, the legislative 36517  
authority and the owner of the property, prior to the commencement 36518  
of construction or remodeling, shall enter into a written 36519  
agreement, binding on both parties for a period of time that does 36520  
not end prior to the end of the period of the exemption, that 36521  
includes all of the information and statements prescribed by this 36522  
section. Agreements may include terms not prescribed by this 36523  
section, but such terms shall in no way derogate from the 36524  
information and statements prescribed by this section. 36525

(1) Except as otherwise provided in division (A)(2) or (3) of 36526  
this section, an agreement entered into under this section shall 36527  
not be approved by the legislative authority unless the board of 36528  
education of the city, local, or exempted village school district 36529  
within the territory of which the property is or will be located 36530  
approves the agreement. For the purpose of obtaining such 36531  
approval, the legislative authority shall certify a copy of the 36532  
agreement to the board of education not later than forty-five days 36533  
prior to approving the agreement, excluding Saturday, Sunday, and 36534  
a legal holiday as defined in section 1.14 of the Revised Code. 36535

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 36568  
dollar value, as mutually agreed to be the owner and the board of 36569  
education, of any property or services provided by the owner of 36570  
the property to the school district, whether by gift, loan, or 36571  
otherwise, and any payment by the legislative authority to the 36572  
school district pursuant to section 5709.82 of the Revised Code. 36573

The estimates of quantities used for purposes of division 36574  
(A)(2) of this section shall be estimated by the legislative 36575  
authority. The legislative authority shall certify to the board of 36576  
education that the estimates have been made in good faith. 36577  
Departures of the actual quantities from the estimates subsequent 36578  
to approval of the agreement by the board of education do not 36579  
invalidate the agreement. 36580

(3) If a board of education has adopted a resolution waiving 36581  
its right to approve agreements and the resolution remains in 36582  
effect, approval of an agreement by the board is not required 36583  
under this division. If a board of education has adopted a 36584  
resolution allowing a legislative authority to deliver the notice 36585  
required under this division fewer than forty-five business days 36586  
prior to the legislative authority's execution of the agreement, 36587  
the legislative authority shall deliver the notice to the board 36588  
not later than the number of days prior to such execution as 36589  
prescribed by the board in its resolution. If a board of education 36590  
adopts a resolution waiving its right to approve agreements or 36591  
shortening the notification period, the board shall certify a copy 36592  
of the resolution to the legislative authority. If the board of 36593  
education rescinds such a resolution, it shall certify notice of 36594  
the rescission to the legislative authority. 36595

(B) Each agreement shall include the following information: 36596

(1) The names of all parties to the agreement; 36597

(2) A description of the remodeling or construction, whether 36598

or not to be exempted from taxation, including existing or new 36599  
structure size and cost thereof; the value of machinery, 36600  
equipment, furniture, and fixtures, including an itemization of 36601  
the value of machinery, equipment, furniture, and fixtures used at 36602  
another location in this state prior to the agreement and 36603  
relocated or to be relocated from that location to the property, 36604  
and the value of machinery, equipment, furniture, and fixtures at 36605  
the facility prior to the execution of the agreement; the value of 36606  
inventory at the property, including an itemization of the value 36607  
of inventory held at another location in this state prior to the 36608  
agreement and relocated or to be relocated from that location to 36609  
the property, and the value of inventory held at the property 36610  
prior to the execution of the agreement; 36611

(3) The scheduled starting and completion dates of remodeling 36612  
or construction of real property or of investments made in 36613  
machinery, equipment, furniture, fixtures, and inventory; 36614

(4) Estimates of the number of employee positions to be 36615  
created each year of the agreement and of the number of employee 36616  
positions retained by the owner due to the remodeling or 36617  
construction, itemized as to the number of full-time, part-time, 36618  
permanent, and temporary positions; 36619

(5) Estimates of the dollar amount of payroll attributable to 36620  
the positions set forth in division (B)(4) of this section, 36621  
similarly itemized; 36622

(6) The number of employee positions, if any, at the property 36623  
and at any other location in this state at the time the agreement 36624  
is executed, itemized as to the number of full-time, part-time, 36625  
permanent, and temporary positions. 36626

(C) Each agreement shall set forth the following information 36627  
and incorporate the following statements: 36628

(1) A description of real property to be exempted from 36629

taxation under the agreement, the percentage of the assessed 36630  
valuation of the real property exempted from taxation, and the 36631  
period for which the exemption is granted, accompanied by the 36632  
statement: "The exemption commences the first year for which the 36633  
real property would first be taxable were that property not 36634  
exempted from taxation. No exemption shall commence after 36635  
..... (insert date) nor extend beyond ..... (insert 36636  
date)." ~~The tax commissioner shall adopt rules prescribing the 36637  
form the description of such property shall assume in order to 36638  
ensure that the property to be exempted from taxation under the 36639  
agreement is distinguishable from property that is not to be 36640  
exempted under that agreement.~~ 36641

(2) "..... (insert name of owner) shall pay such real 36642  
property taxes as are not exempted under this agreement and are 36643  
charged against such property and shall file all tax reports and 36644  
returns as required by law. If ..... (insert name of owner) 36645  
fails to pay such taxes or file such returns and reports, 36646  
exemptions from taxation granted under this agreement are 36647  
rescinded beginning with the year for which such taxes are charged 36648  
or such reports or returns are required to be filed and 36649  
thereafter." 36650

(3) "..... (insert name of owner) hereby certifies that 36651  
at the time this agreement is executed, ..... (insert name of 36652  
owner) does not owe any delinquent real or tangible personal 36653  
property taxes to any taxing authority of the State of Ohio, and 36654  
does not owe delinquent taxes for which ..... (insert name of 36655  
owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 36656  
5747., or 5753. of the Ohio Revised Code, or, if such delinquent 36657  
taxes are owed, ..... (insert name of owner) currently is 36658  
paying the delinquent taxes pursuant to an undertaking enforceable 36659  
by the State of Ohio or an agent or instrumentality thereof, has 36660  
filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or 36661

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 36694  
the express, written approval of ..... (insert name of 36695  
municipal corporation or county)." 36696

(9) "Exemptions from taxation granted under this agreement 36697  
shall be revoked if it is determined that ..... (insert name 36698  
of owner), any successor to that person, or any related member (as 36699  
those terms are defined in division (E) of section 3735.671 of the 36700  
Ohio Revised Code) has violated the prohibition against entering 36701  
into this agreement under division (E) of section 3735.671 or 36702  
section 5709.62 or 5709.63 of the Ohio Revised Code prior to the 36703  
time prescribed by that division or either of those sections." 36704

(10) "..... (insert name of owner) and ..... 36705  
(insert name of municipal corporation or county) acknowledge that 36706  
this agreement must be approved by formal action of the 36707  
legislative authority of ..... (insert name of municipal 36708  
corporation or county) as a condition for the agreement to take 36709  
effect. This agreement takes effect upon such approval." 36710

The statement described in division (C)(6) of this section 36711  
may include the following statement, appended at the end of the 36712  
statement: ", and may require the repayment of the amount of taxes 36713  
that would have been payable had the property not been exempted 36714  
from taxation under this agreement." 36715

(D) Except as otherwise provided in this division, an 36716  
agreement entered into under this section shall require that the 36717  
owner pay an annual fee equal to the greater of one per cent of 36718  
the amount of taxes exempted under the agreement or five hundred 36719  
dollars; provided, however, that if the value of the incentives 36720  
exceeds two hundred fifty thousand dollars, the fee shall not 36721  
exceed two thousand five hundred dollars. The fee shall be payable 36722  
to the legislative authority once per year for each year the 36723  
agreement is effective on the days and in the form specified in 36724

the agreement. Fees paid shall be deposited in a special fund 36725  
created for such purpose by the legislative authority and shall be 36726  
used by the legislative authority exclusively for the purpose of 36727  
complying with section 3735.672 of the Revised Code and by the tax 36728  
incentive review council created under section 5709.85 of the 36729  
Revised Code exclusively for the purposes of performing the duties 36730  
prescribed under that section. The legislative authority may waive 36731  
or reduce the amount of the fee, but such waiver or reduction does 36732  
not affect the obligations of the legislative authority or the tax 36733  
incentive review council to comply with section 3735.672 or 36734  
5709.85 of the Revised Code. 36735

(E) If any person that is party to an agreement granting an 36736  
exemption from taxation discontinues operations at the structure 36737  
to which that exemption applies prior to the expiration of the 36738  
term of the agreement, that person, any successor to that person, 36739  
and any related member shall not enter into an agreement under 36740  
this section or section 5709.62, 5709.63, or 5709.632 of the 36741  
Revised Code, and no legislative authority shall enter into such 36742  
an agreement with such a person, successor, or related member, 36743  
prior to the expiration of five years after the discontinuation of 36744  
operations. As used in this division, "successor" means a person 36745  
to which the assets or equity of another person has been 36746  
transferred, which transfer resulted in the full or partial 36747  
nonrecognition of gain or loss, or resulted in a carryover basis, 36748  
both as determined by rule adopted by the tax commissioner. 36749  
"Related member" has the same meaning as defined in section 36750  
5733.042 of the Revised Code without regard to division (B) of 36751  
that section. 36752

The director of development shall review all agreements 36753  
submitted to the director under division (F) of this section for 36754  
the purpose of enforcing this division. If the director determines 36755  
there has been a violation of this division, the director shall 36756

notify the legislative authority of such violation, and the 36757  
legislative authority immediately shall revoke the exemption 36758  
granted under the agreement. 36759

(F) When an agreement is entered into under this section, the 36760  
legislative authority authorizing the agreement shall forward a 36761  
copy of the agreement to the director of development ~~and to the~~ 36762  
~~tax commissioner~~ within fifteen days after the agreement is 36763  
entered into. 36764

**Sec. 3737.01.** As used in this chapter: 36765

(A) "Assistant fire marshal" means any person who is employed 36766  
by the fire marshal and who carries out specific duties assigned 36767  
by the fire marshal, including, but not limited to, enforcement of 36768  
Chapters 3731., 3737., and 3743. of the Revised Code, fire 36769  
inspection, fire code enforcement, fire investigation, and fire 36770  
prevention, ~~or the regulation of underground storage tank systems~~ 36771  
~~as defined in section 3737.87 of the Revised Code.~~ 36772

(B) "Consumer goods" means any item sold, leased, or rented 36773  
primarily for personal or household use. 36774

(C) "Fire agency" means any state or local fire service or 36775  
agency whose function is to examine the property of another person 36776  
for the purpose of identifying fire safety hazards. 36777

(D) "Fire safety inspector" means any person who is a member 36778  
of the civil service, as defined in section 124.01 of the Revised 36779  
Code, or who is employed by or voluntarily serves a village or 36780  
township, and who examines the property of another person for the 36781  
purpose of identifying fire safety hazards. 36782

(E) "Person," in addition to the meaning in section 1.59 of 36783  
the Revised Code, means the state and any political subdivision of 36784  
the state, and any other entity, public or private. 36785

(F) "Responsible person" means the person responsible for 36786

compliance with the state fire code, including, but not limited 36787  
to, the owner, lessee, agent, operator, or occupant of a building, 36788  
premises, or vehicle. 36789

**Sec. 3737.02.** (A) The fire marshal may collect fees to cover 36790  
the costs of performing inspections and other duties that the fire 36791  
marshal is authorized or required by law to perform. Except as 36792  
provided in division (B) of this section, all fees collected by 36793  
the fire marshal shall be deposited to the credit of the fire 36794  
marshal's fund. 36795

(B) Fees collected under sections 3737.88 and 3737.881 of the 36796  
Revised Code for operation of the underground storage tank and 36797  
underground storage tank installer certification programs, moneys 36798  
recovered under section 3737.89 of the Revised Code for the 36799  
state's costs of undertaking corrective or enforcement actions 36800  
under that section or section 3737.882 of the Revised Code, and 36801  
fines and penalties collected under section 3737.882 of the 36802  
Revised Code shall be credited to the underground storage tank 36803  
administration fund, which is hereby created in the state 36804  
treasury. All interest earned on moneys credited to the 36805  
underground storage tank administration fund shall be credited to 36806  
the fund. Moneys credited to the underground storage tank 36807  
administration fund shall be used by the ~~fire marshal~~ 36808  
superintendent of industrial compliance for implementation and 36809  
enforcement of underground storage tank, corrective action, and 36810  
installer certification programs under sections 3737.88 to 3737.89 36811  
of the Revised Code. 36812

(C) The ~~fire marshal~~ superintendent shall take all actions 36813  
necessary to obtain any federal funding available to carry out the 36814  
~~fire marshal's~~ superintendent's responsibilities under sections 36815  
3737.88 to 3737.89 of the Revised Code and federal laws regarding 36816  
the cleaning up of releases of petroleum, as "release" is defined 36817

in section 3737.87 of the Revised Code, including, without 36818  
limitation, any federal funds that are available to reimburse the 36819  
state for the costs of undertaking corrective actions for such 36820  
releases of petroleum. The state may, when appropriate, return to 36821  
the United States any federal funds recovered under sections 36822  
3737.882 and 3737.89 of the Revised Code. 36823

**Sec. 3737.03.** The state fire commission may do all of the 36824  
following: 36825

(A) Conduct research, make and publish reports on fire 36826  
safety, and recommend to the governor, the general assembly, the 36827  
board of building and fire standards, and other state agencies, 36828  
any needed changes in the laws, rules, or administrative policies 36829  
relating to fire safety; 36830

~~(B) Recommend revisions in the rules included in the state 36831  
fire code adopted by the fire marshal. The recommendations may 36832  
propose the adoption of new rules or the amendment or repeal of 36833  
existing rules. The commission shall file its recommendations in 36834  
the office of the fire marshal, and, within sixty days after the 36835  
recommendations are filed, the fire marshal shall file with the 36836  
chairperson of the commission the fire marshal's comments on, and 36837  
proposed action in response to, the recommendations. 36838~~

~~(C)~~ Maintain the Ohio fire service hall of fame. In 36839  
maintaining the hall of fame, the commission shall keep official 36840  
commendations that recognize and commemorate exemplary 36841  
accomplishments and acts of heroism by firefighters and other 36842  
persons at fire-related incidents or similar events occurring in 36843  
the state. The commission may adopt criteria and guidelines for 36844  
selecting individuals for that recognition and commemoration. The 36845  
recognition and commemoration of individuals may occur annually 36846  
and include an annual awards ceremony. The expenses associated 36847  
with the recognition and commemoration of individuals shall be 36848

paid in accordance with division (F) of section 3737.81 of the Revised Code. 36849  
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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: 36851  
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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; 36856  
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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. 36861  
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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. 36865  
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**Sec. 3737.22.** (A) The fire marshal shall do all of the 36878

following:	36879
(1) Adopt <del>the state fire code under sections 3737.82 to</del>	36880
<del>3737.86 of the Revised Code</del> <u>rules necessary to carry out the duty</u>	36881
<u>imposed by division (A)(2) of this section;</u>	36882
(2) Enforce the state fire code;	36883
(3) Appoint assistant fire marshals who are authorized to	36884
enforce the state fire code;	36885
(4) Conduct investigations into the cause, origin, and	36886
circumstances of fires and explosions, and assist in the	36887
prosecution of persons believed to be guilty of arson or a similar	36888
crime;	36889
(5) Compile statistics concerning loss due to fire and	36890
explosion as the fire marshal considers necessary, and consider	36891
the compatibility of the fire marshal's system of compilation with	36892
the systems of other state and federal agencies and fire marshals	36893
of other states;	36894
(6) Engage in research on the cause and prevention of losses	36895
due to fire and explosion;	36896
(7) Engage in public education and informational activities	36897
which will inform the public of fire safety information;	36898
(8) Operate a fire training academy and forensic laboratory;	36899
(9) Conduct other fire safety and fire fighting training	36900
activities for the public and groups as will further the cause of	36901
fire safety;	36902
(10) Conduct licensing examinations, and issue permits,	36903
licenses, and certificates, as authorized by the Revised Code;	36904
(11) Conduct tests of fire protection systems and devices,	36905
and fire fighting equipment to determine compliance with the state	36906
fire code, unless a building is insured against the hazard of	36907
fire, in which case such tests may be performed by the company	36908

insuring the building; 36909

(12) Establish and collect fees for conducting licensing 36910  
examinations and for issuing permits, licenses, and certificates; 36911

(13) Make available for the prosecuting attorney and an 36912  
assistant prosecuting attorney from each county of this state, in 36913  
accordance with section 3737.331 of the Revised Code, a seminar 36914  
program, attendance at which is optional, that is designed to 36915  
provide current information, data, training, and techniques 36916  
relative to the prosecution of arson cases; 36917

(14) Administer and enforce Chapter 3743. of the Revised 36918  
Code; 36919

(15) Develop a uniform standard for the reporting of 36920  
information required to be filed under division (E)(4) of section 36921  
2921.22 of the Revised Code, and accept the reports of the 36922  
information when they are filed. 36923

(B) The fire marshal shall appoint a chief deputy fire 36924  
marshal, and shall employ professional and clerical assistants as 36925  
the fire marshal considers necessary. The chief deputy shall be a 36926  
competent former or current member of a fire agency and possess 36927  
five years of recent, progressively more responsible experience in 36928  
fire inspection, fire code enforcement, and fire code management. 36929  
The chief deputy, with the approval of the director of ~~commerce~~ 36930  
public safety, shall temporarily assume the duties of the fire 36931  
marshal when the fire marshal is absent or temporarily unable to 36932  
carry out the duties of the office. When there is a vacancy in the 36933  
office of fire marshal, the chief deputy, with the approval of the 36934  
director of ~~commerce~~ public safety, shall temporarily assume the 36935  
duties of the fire marshal until a new fire marshal is appointed 36936  
under section 3737.21 of the Revised Code. 36937

All employees, other than the fire marshal; the chief deputy 36938  
fire marshal; the superintendent of the Ohio fire academy; the 36939

grants administrator; the fiscal officer; the executive secretary 36940  
to the fire marshal; legal counsel; the pyrotechnics 36941  
administrator, the chief of the forensic laboratory; the person 36942  
appointed by the fire marshal to serve as administrator over 36943  
functions concerning testing, license examinations, and the 36944  
issuance of permits and certificates; and the chiefs of the 36945  
bureaus of fire prevention, of fire and explosion investigation, 36946  
and of code enforcement, ~~and of underground storage tanks~~ shall be 36947  
in the classified civil service. The fire marshal shall authorize 36948  
the chief deputy and other employees under the fire marshal's 36949  
supervision to exercise powers granted to the fire marshal by law 36950  
as may be necessary to carry out the duties of the fire marshal's 36951  
office. 36952

(C) The fire marshal shall create, in and as a part of the 36953  
office of fire marshal, a fire and explosion investigation bureau 36954  
consisting of a chief of the bureau and additional assistant fire 36955  
marshals as the fire marshal determines necessary for the 36956  
efficient administration of the bureau. The chief shall be 36957  
experienced in the investigation of the cause, origin, and 36958  
circumstances of fires, and in administration, including the 36959  
supervision of subordinates. The chief, among other duties 36960  
delegated to the chief by the fire marshal, shall be responsible, 36961  
under the direction of the fire marshal, for the investigation of 36962  
the cause, origin, and circumstances of fires and explosions in 36963  
the state, and for assistance in the prosecution of persons 36964  
believed to be guilty of arson or a similar crime. 36965

(D)(1) The fire marshal shall create, as part of the office 36966  
of fire marshal, a bureau of code enforcement consisting of a 36967  
chief of the bureau and additional assistant fire marshals as the 36968  
fire marshal determines necessary for the efficient administration 36969  
of the bureau. The chief shall be qualified, by education or 36970  
experience, in fire inspection, fire code development, fire code 36971

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 37004  
services on the procedures for determining compliance with those 37005  
rules. 37006

(G) The fire marshal, upon request of a provider of child 37007  
day-care in a type B home that is not certified by the county 37008  
director of job and family services, as a precondition of approval 37009  
by the state board of education under section 3313.813 of the 37010  
Revised Code for receipt of United States department of 37011  
agriculture child and adult care food program funds established 37012  
under the "National School Lunch Act," 60 Stat. 230 (1946), 42 37013  
U.S.C. 1751, as amended, shall inspect the type B home to 37014  
determine compliance with rules adopted under section 5104.052 of 37015  
the Revised Code regarding fire prevention and fire safety in 37016  
certified type B homes. In municipal corporations and in townships 37017  
where there is a certified fire safety inspector, the inspections 37018  
shall be made by that inspector under the supervision of the fire 37019  
marshal, according to rules adopted under section 5104.052 of the 37020  
Revised Code. In townships outside municipal corporations where 37021  
there is no certified fire safety inspector, inspections shall be 37022  
made by the fire marshal. 37023

(H) The fire marshal may grant a variance to any provision of 37024  
the state fire code upon written application by an affected party 37025  
and upon demonstration by that party of both of the following: 37026

(1) That a literal enforcement of the provision will result 37027  
in an unnecessary hardship to the party; 37028

(2) Either that the variance will not threaten the public 37029  
health, safety, or welfare or that the party will provide measures 37030  
to protect the public health, safety, and welfare that are 37031  
substantially equivalent to the measures otherwise required under 37032  
the state fire code. 37033

**Sec. 3737.65.** (A) No person shall sell, offer for sale, or 37034

use any fire protection or fire fighting equipment that does not 37035  
meet the minimum standards established by the fire marshal ~~in the~~ 37036  
~~state fire code.~~ 37037

(B) Except for public and private mobile fire trucks, no 37038  
person shall service, test, repair, or install for profit any fire 37039  
protection or fire fighting equipment without a certificate or a 37040  
provisional certificate issued by the fire marshal. 37041

(C) The fire marshal shall not issue a provisional 37042  
certificate pursuant to division (B) of this section to any 37043  
individual who is not enrolled in a bona fide apprenticeship 37044  
training program registered with the apprenticeship council 37045  
pursuant to section 4139.05 of the Revised Code or with the bureau 37046  
of apprenticeship and training of the United States department of 37047  
labor. A provisional certificate issued pursuant to this section 37048  
authorizes an individual to engage in the activities permitted 37049  
under division (B) of this section only if the individual: 37050

(1) Remains enrolled in such an apprenticeship training 37051  
program; and 37052

(2) Is directly supervised by an individual who possesses a 37053  
valid and current certificate issued pursuant to division (B) of 37054  
this section for the activities in which the individual issued the 37055  
provisional certificate is engaged and the certified individual 37056  
directly supervising the individual issued the provisional 37057  
certificate only supervises one provisional certificate holder. 37058

**Sec. 3737.71.** Each insurance company doing business in this 37059  
state shall pay to the state in installments, at the time of 37060  
making the payments required by section 5729.05 of the Revised 37061  
Code, in addition to the taxes required to be paid by it, 37062  
three-fourths of one per cent on the gross premium receipts 37063  
derived from fire insurance and that portion of the premium 37064  
reasonably allocable to insurance against the hazard of fire 37065

included in other coverages except life and sickness and accident 37066  
insurance, after deducting return premiums paid and considerations 37067  
received for reinsurances as shown by the annual statement of such 37068  
company made pursuant to sections 3929.30, 3931.06, and 5729.02 of 37069  
the Revised Code. The money received shall be paid into the state 37070  
treasury to the credit of the state fire marshal's fund, which is 37071  
hereby created. The fund shall be used for the maintenance and 37072  
administration of the office of the fire marshal and the Ohio fire 37073  
academy established by section 3737.33 of the Revised Code. If the 37074  
director of ~~commerce~~ public safety certifies to the director of 37075  
budget and management that the cash balance in the state fire 37076  
marshal's fund is in excess of the amount needed to pay ongoing 37077  
operating expenses, the director may use the excess amount to 37078  
acquire by purchase, lease, or otherwise, real property or 37079  
interests in real property to be used for the benefit of the 37080  
office of the state fire marshal, or to construct, acquire, 37081  
enlarge, equip, furnish, or improve the fire marshal's office 37082  
facilities or the facilities of the Ohio fire academy. The state 37083  
fire marshal's fund shall be assessed a proportionate share of the 37084  
administrative costs of the department of ~~commerce~~ public safety 37085  
in accordance with procedures prescribed by the director of 37086  
~~commerce~~ public safety and approved by the director of budget and 37087  
management. Such assessment shall be paid from the state fire 37088  
marshal's fund to the ~~division of administration fund~~ credit of 37089  
the highway safety fund created by section 4501.06 of the Revised 37090  
Code and shall be subject to appropriation solely for the expense 37091  
of operation and maintenance of the department of public safety. 37092

**Sec. 3737.81.** (A) There is hereby created within the 37093  
department of public safety the state fire commission consisting 37094  
of ten members to be appointed by the governor with the advice and 37095  
consent of the senate. The fire marshal or chief deputy fire 37096  
marshal, a representative designated by the department of public 37097

safety who has tenure in fire suppression, and a representative 37098  
designated by the board of building standards shall be ex officio 37099  
members. Of the initial appointments made to the commission, two 37100  
shall be for a term ending one year after November 1, 1978, two 37101  
shall be for a term ending two years after that date, two shall be 37102  
for a term ending three years after that date, two shall be for a 37103  
term ending four years after that date, and two shall be for a 37104  
term ending five years after that date. Thereafter, terms of 37105  
office shall be for five years, each term ending on the same day 37106  
of the same month of the year as did the term which it succeeds. 37107  
Each member shall hold office from the date of appointment until 37108  
the end of the term for which the member was appointed. Any member 37109  
appointed to fill a vacancy occurring prior to the expiration of 37110  
the term for which the member's predecessor was appointed shall 37111  
hold office for the remainder of that term. Any member shall 37112  
continue in office subsequent to the expiration date of the 37113  
member's term until a successor takes office, or until a period of 37114  
sixty days has elapsed, whichever occurs first. Members shall be 37115  
qualified by experience and training to deal with the matters that 37116  
are the responsibility of the commission. Two members shall be 37117  
members of paid fire services, one shall be a member of volunteer 37118  
fire services, two shall be mayors, managers, or members of 37119  
legislative authorities of municipal corporations, one shall 37120  
represent commerce and industry, one shall be a representative of 37121  
a fire insurance company domiciled in this state, one shall 37122  
represent the flammable liquids industry, one shall represent the 37123  
construction industry, and one shall represent the public. At no 37124  
time shall more than six members be members of or associated with 37125  
the same political party. Membership on the commission shall not 37126  
constitute holding a public office, and no person shall forfeit or 37127  
otherwise vacate the person's office or position of employment 37128  
because of membership on the commission. 37129

(B) The ex officio members may not vote, except that the fire 37130

marshal or chief deputy fire marshal may vote in case of a tie. 37131

(C) Each member of the commission, other than ex officio 37132  
members, shall be paid an amount ~~equal to that payable under pay~~ 37133  
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 37134  
of the Revised Code, and the member's actual and necessary 37135  
expenses. 37136

(D) The commission shall select a chairperson and a 37137  
vice-chairperson from among its members. No business may be 37138  
transacted in the absence of a quorum. A quorum shall be at least 37139  
six members, excluding ex officio members, and shall include 37140  
either the chairperson or vice-chairperson. The commission shall 37141  
hold regular meetings at least once every two months and may meet 37142  
at any other time at the call of the chairperson. 37143

(E) The fire marshal shall provide the commission with office 37144  
space, meeting rooms, staff, and clerical assistance necessary for 37145  
the commission to perform its duties. If the commission maintains 37146  
the Ohio fire service hall of fame under division ~~(C)~~(B) of 37147  
section 3737.03 of the Revised Code, the fire marshal shall 37148  
preserve, in an appropriate manner, in the office space or meeting 37149  
rooms provided to the commission under this division or in another 37150  
location, copies of all official commendations awarded to 37151  
individuals recognized and commemorated for their exemplary 37152  
accomplishments and acts of heroism at fire-related incidents or 37153  
similar events that occurred in this state. 37154

(F) If the commission maintains the Ohio fire service hall of 37155  
fame under division ~~(C)~~(B) of section 3737.03 of the Revised Code, 37156  
the expenses incurred for the recognition and commemoration of 37157  
individuals for their exemplary accomplishments and acts of 37158  
heroism at fire-related incidents or similar events that occurred 37159  
in this state, including, but not limited to, expenses for 37160  
official commendations and an annual awards ceremony as described 37161  
in division ~~(C)~~(B) of section 3737.03 of the Revised Code, may be 37162

paid from moneys appropriated by the general assembly for purposes 37163  
of that recognition and commemoration, from moneys that are 37164  
available to the fire marshal under this chapter, or from other 37165  
funding sources available to the commission. 37166

**Sec. 3737.82.** The ~~fire marshal~~ board of building and fire 37167  
standards shall adopt a state fire code which shall consist of 37168  
rules relating to all aspects of fire safety. The rules shall be 37169  
the minimum standards for safeguarding life and property from fire 37170  
and explosion, and the ~~fire marshal~~ board may, in adopting these 37171  
rules, incorporate by reference existing published standards as 37172  
well as amendments thereto subsequently published by the same 37173  
authority. The fire code shall include, but not be limited to, 37174  
rules relating to the movable contents of any building, or class 37175  
of buildings, the transportation, storage, location, and use of 37176  
flammable or explosive materials, the procedures to be employed by 37177  
persons in the event of fire, the installation and location of 37178  
fire protection equipment, and other similar matters. The fire 37179  
code may contain rules applicable to particular classes of 37180  
existing buildings or structures as the use and occupancy of such 37181  
buildings or structures suggest are necessary. The ~~fire marshal~~ 37182  
board may amend, modify, or repeal any rule of the state fire 37183  
code. 37184

**Sec. 3737.83.** The ~~fire marshal~~ board of building and fire 37185  
standards shall, as part of the state fire code, adopt rules to: 37186

(A) Establish minimum standards of performance for fire 37187  
protection equipment and fire fighting equipment; 37188

(B) Establish minimum standards of training, fix minimum 37189  
qualifications, and require certificates for all persons who 37190  
engage in the business for profit of installing, testing, 37191  
repairing, or maintaining fire protection equipment; 37192

(C) Provide for the issuance of certificates required under 37193  
division (B) of this section and establish the fees to be charged 37194  
for such certificates. A certificate shall be granted, renewed, or 37195  
revoked according to rules the ~~fire marshal~~ board shall adopt. 37196

(D) Establish minimum standards of flammability for consumer 37197  
goods in any case where the federal government or any department 37198  
or agency thereof has established, or may from time to time 37199  
establish standards of flammability for consumer goods. The 37200  
standards established by the ~~fire marshal~~ board shall be identical 37201  
to the minimum federal standards. 37202

In any case where the federal government or any department or 37203  
agency thereof, establishes standards of flammability for consumer 37204  
goods subsequent to the adoption of a flammability standard by the 37205  
~~fire marshal~~ board, standards previously adopted by the ~~fire~~ 37206  
~~marshal~~ board shall not continue in effect to the extent such 37207  
standards are not identical to the minimum federal standards. 37208

With respect to the adoption of minimum standards of 37209  
flammability, this division shall supersede any authority granted 37210  
a political subdivision by any other section of the Revised Code. 37211

(E) Establish minimum standards pursuant to section 5104.05 37212  
of the Revised Code for fire prevention and fire safety in child 37213  
day-care centers and in type A family day-care homes, as defined 37214  
in section 5104.01 of the Revised Code. 37215

(F) Establish minimum standards for fire prevention and 37216  
safety an adult group home seeking licensure as an adult care 37217  
facility must meet under section 3722.02 of the Revised Code. The 37218  
~~fire marshal~~ board shall adopt the rules under this division in 37219  
consultation with the directors of health and aging and interested 37220  
parties designated by the directors of health and aging. 37221

**Sec. 3737.84.** (A) The state fire code adopted pursuant to 37222

sections 3737.82 and 3737.83 of the Revised Code shall not contain 37223  
any provision as follows: 37224

(1) Relating to the organization or structure of a municipal 37225  
or township fire department; 37226

(2) Relating to structural building requirements covered by 37227  
the Ohio building code; 37228

(3) That would cause an employer, in complying with it, to be 37229  
in violation of the "Occupational Safety and Health Act of 1970," 37230  
84 Stat. 1590, 29 U.S.C.A. 651, or the "Consumer Product Safety 37231  
Act of 1972," 86 Stat. 1207, 15 U.S.C.A. 2051; 37232

(4) Regulating manufacturers or manufacturing facilities with 37233  
respect to occupational hazards where they are subject to 37234  
regulation by the federal occupational safety and health 37235  
administration; 37236

(5) That is inconsistent with, or in conflict with, 37237  
regulations of the federal occupational safety and health 37238  
administration or the hazardous materials regulations of the 37239  
hazardous materials regulations board of the federal highway 37240  
administration, United States department of transportation, or the 37241  
public utilities commission; 37242

(6) That establishes a minimum standard of flammability for 37243  
consumer goods in any area where the "Flammable Fabrics Act," 81 37244  
Stat. 568 (1967), 15 U.S.C. 1191 authorizes the federal government 37245  
or any department or agency of the federal government to establish 37246  
national standards of flammability for consumer goods; 37247

(7) That establishes a health or safety standard for the use 37248  
of explosives in mining, for which the federal government through 37249  
its authorized agency sets health or safety standards pursuant to 37250  
section 6 of the "Federal Metal and Nonmetallic Mine Safety Act of 37251  
1966," 80 Stat. 772, 30 U.S.C. 725, or section 101 of the "Federal 37252  
Coal Mine Health and Safety Act of 1969," 83 Stat. 745, 30 37253

U.S.C.A. 811; 37254

(8) That is inconsistent with, or in conflict with, section 37255  
3737.73 or Chapter 3743. of the Revised Code, or the rules adopted 37256  
pursuant to that chapter; 37257

(9)(a) Restricting the dispensing of diesel fuel at a 37258  
terminal or bulk plant into a motor vehicle that is transporting 37259  
petroleum products or equipment essential to the operation of the 37260  
terminal or bulk plant, provided that the motor vehicle is owned 37261  
or leased by or operated under a contract with a person who has 37262  
been issued a motor fuel dealer's license under section 5735.02 of 37263  
the Revised Code; 37264

(b) Authorizing the dispensing of any petroleum products at a 37265  
terminal or bulk plant from an ~~above-ground~~ aboveground storage 37266  
tank at the terminal or bulk plant to a motor vehicle other than a 37267  
motor vehicle that is described in division (A)(9)(a) of this 37268  
section or to a member of the general public. 37269

As used in this section, "terminal or bulk plant" means that 37270  
portion of a property where petroleum products are received by 37271  
tank vessels, pipelines, tank cars, or tank vehicles and are 37272  
stored or blended in bulk for the purpose of distributing the 37273  
petroleum products via tank vessel, pipeline, tank car, tank 37274  
vehicle, portable tank, or container. 37275

(B) No penalty shall be imposed by the fire marshal or the 37276  
board of building and fire standards on any person for a violation 37277  
of the state fire code if a penalty has been imposed or an order 37278  
issued by the federal government for a violation of a similar 37279  
provision contained in or adopted pursuant to the federal acts 37280  
referred to in this section, where the facts that constitute the 37281  
violation of the state fire code are the same as those that 37282  
constitute the violation or alleged violation of the federal act. 37283

**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 37314  
the standards so established. 37315

~~(C) The fire marshal shall file a copy of the full text of 37316  
any proposed rule with the chairman of the state fire commission. 37317  
The fire marshal shall not adopt the proposed rule until the 37318  
commission has filed in the office of the fire marshal 37319  
recommendations for revisions in the proposed rule or until a 37320  
period of sixty days has elapsed since the proposed rule was filed 37321  
with the chairman of the commission, whichever occurs first. The 37322  
fire marshal shall consider any recommendations made by the 37323  
commission before adopting the proposed rule, but may accept, 37324  
reject, or modify the recommendations. 37325~~

**Sec. 3737.88.** (A)(1) The ~~fire marshal~~ superintendent of 37326  
industrial compliance shall have responsibility for implementation 37327  
of the underground storage tank program and corrective action 37328  
program for releases from underground petroleum storage tanks 37329  
established by the "Resource Conservation and Recovery Act of 37330  
1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement 37331  
the program, the ~~fire marshal~~ superintendent may adopt, amend, and 37332  
rescind such rules, conduct such inspections, require annual 37333  
registration of underground storage tanks, issue such citations 37334  
and orders to enforce those rules, and perform such other duties, 37335  
as are consistent with those programs. The ~~fire marshal~~ 37336  
superintendent, by rule, may delegate the authority to conduct 37337  
inspections of underground storage tanks to certified fire safety 37338  
inspectors. 37339

(2) In the place of any rules regarding release containment 37340  
and release detection for underground storage tanks adopted under 37341  
division (A)(1) of this section, the ~~fire marshal~~ superintendent, 37342  
by rule, shall designate areas as being sensitive for the 37343  
protection of human health and the environment and adopt 37344

alternative rules regarding release containment and release 37345  
detection methods for new and upgraded underground storage tank 37346  
systems located in those areas. In designating such areas, the 37347  
~~fire marshal~~ superintendent shall take into consideration such 37348  
factors as soil conditions, hydrogeology, water use, and the 37349  
location of public and private water supplies. Not later than July 37350  
11, 1990, the ~~fire marshal~~ superintendent shall file the rules 37351  
required under this division with the secretary of state, director 37352  
of the legislative service commission, and joint committee on 37353  
agency rule review in accordance with divisions (B) and (H) of 37354  
section 119.03 of the Revised Code. 37355

(B) Before adopting any rule under this section or section 37356  
3737.881 or 3737.882 of the Revised Code, the ~~fire marshal~~ 37357  
superintendent shall file written notice of ~~his~~ the proposed rule 37358  
with the ~~chairman~~ chairperson of the ~~state fire commission board~~ 37359  
of building and fire standards, and, within sixty days after 37360  
notice is filed, the ~~commission board~~ may file responses to or 37361  
comments on and may recommend alternative or supplementary rules 37362  
to the ~~fire marshal~~ superintendent. At the end of the sixty-day 37363  
period or upon the filing of responses, comments, or 37364  
recommendations by the ~~commission board~~, the ~~fire marshal~~ 37365  
superintendent may adopt the rule filed with the ~~commission board~~ 37366  
or any alternative or supplementary rule recommended by the 37367  
~~commission board~~. 37368

(C) The ~~fire commission board~~ may recommend courses of action 37369  
to be taken by the ~~fire marshal~~ superintendent in carrying out ~~his~~ 37370  
the superintendent's duties under this section. The ~~commission~~ 37371  
board shall file its recommendations in the office of the ~~fire~~ 37372  
~~marshal~~ superintendent, and, within sixty days after the 37373  
recommendations are filed, the ~~fire marshal~~ superintendent shall 37374  
file with the ~~chairman~~ chairperson of the ~~commission his board the~~ 37375  
superintendent's comments on, and proposed action in response to, 37376

the recommendations. 37377

(D) For the purpose of sections 3737.87 to 3737.89 of the 37378  
Revised Code, the ~~fire-marshal~~ superintendent shall adopt, and may 37379  
amend and rescind, rules identifying or listing hazardous 37380  
substances. The rules shall be consistent with and equivalent in 37381  
scope, coverage, and content to regulations identifying or listing 37382  
hazardous substances adopted under the "Comprehensive 37383  
Environmental Response, Compensation, and Liability Act of 1980," 37384  
94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the ~~fire~~ 37385  
~~marshal~~ superintendent shall not identify or list as a hazardous 37386  
substance any hazardous waste identified or listed in rules 37387  
adopted under division (A) of section 3734.12 of the Revised Code. 37388

(E) Notwithstanding any provision of the laws of this state 37389  
to the contrary, the ~~fire-marshal~~ superintendent has exclusive 37390  
jurisdiction to regulate the storage, treatment, and disposal of 37391  
petroleum contaminated soil generated from corrective actions 37392  
undertaken in response to releases of petroleum. The ~~fire-marshal~~ 37393  
superintendent may adopt, amend, or rescind such rules as ~~he~~ the 37394  
superintendent considers to be necessary or appropriate to 37395  
regulate the storage, treatment, or disposal of petroleum 37396  
contaminated soil so generated. 37397

(F) The ~~fire-marshal~~ superintendent shall adopt, amend, and 37398  
rescind rules under sections 3737.88 to 3737.882 of the Revised 37399  
Code in accordance with Chapter 119. of the Revised Code. 37400

**Sec. 3737.881.** (A) The ~~fire-marshal~~ superintendent of 37401  
industrial compliance shall certify underground storage tank 37402  
systems installers who meet the standards for certification 37403  
established in rules adopted under division (D)(1) of this 37404  
section, pass the certification examination required by this 37405  
division, and pay the certificate fee established in rules adopted 37406  
under division (D)(5) of this section. Any individual who wishes 37407

to obtain certification as an installer shall apply to the ~~fire~~ 37408  
~~marshal~~ superintendent on a form prescribed by the ~~fire-marshal~~ 37409  
superintendent. The application shall be accompanied by the 37410  
application and examination fees established in rules adopted 37411  
under division (D)(5) of this section. 37412

The ~~fire-marshal~~ superintendent shall prescribe an 37413  
examination designed to test the knowledge of applicants for 37414  
certification as underground storage tank system installers in the 37415  
installation, repair, abandonment, and removal of those systems. 37416  
The examination shall also test the applicants' knowledge and 37417  
understanding of the requirements and standards established in 37418  
rules adopted under sections 3737.88 and 3737.882 of the Revised 37419  
Code pertaining to the installation, repair, abandonment, and 37420  
removal of those systems. 37421

Installer certifications issued under this division shall be 37422  
renewed annually, upon submission of a certification renewal form 37423  
prescribed by the ~~fire-marshal~~ superintendent, provision of proof 37424  
of successful completion of continuing education requirements, and 37425  
payment of the certification renewal fee established in rules 37426  
adopted under division (D)(5) of this section. In addition, the 37427  
~~fire-marshal~~ superintendent may from time to time prescribe an 37428  
examination for certification renewal and may require applicants 37429  
to pass the examination and pay the fee established for it in 37430  
rules adopted under division (D)(5) of this section. 37431

The ~~fire-marshal~~ superintendent may, in accordance with 37432  
Chapter 119. of the Revised Code, deny, suspend, revoke, or refuse 37433  
to renew an installer's certification or renewal thereof ~~if he~~ 37434  
~~finds~~ after finding that any of the following applies: 37435

(1) The applicant for certification or certificate holder 37436  
fails to meet the standards for certification or renewal thereof 37437  
under this section and rules adopted under it; 37438

(2) The certification was obtained through fraud or 37439  
misrepresentation; 37440

(3) The certificate holder recklessly caused or permitted a 37441  
person under ~~his~~ the certificate holder's supervision to install, 37442  
perform major repairs on site to, abandon, or remove an 37443  
underground storage tank system in violation of the performance 37444  
standards set forth in rules adopted under section 3737.88 or 37445  
3737.882 of the Revised Code. 37446

As used in division (A)(3) of this section, "recklessly" has 37447  
the same meaning as in section 2901.22 of the Revised Code. 37448

(B) The ~~fire marshal~~ superintendent shall certify persons who 37449  
sponsor training programs for underground storage tank system 37450  
installers who meet the criteria for certification established in 37451  
rules adopted by the ~~fire marshal~~ superintendent under division 37452  
(D)(4) of this section and pay the certificate fee established in 37453  
rules adopted under division (D)(5) of this section. Any person 37454  
who wishes to obtain certification to sponsor such a training 37455  
program shall apply to the ~~fire marshal~~ superintendent on a form 37456  
prescribed by ~~him~~ the superintendent. Training program 37457  
certificates issued under this division shall expire annually. 37458  
Upon submission of a certification renewal application form 37459  
prescribed by the ~~fire marshal~~ superintendent and payment of the 37460  
application and certification renewal fees established in rules 37461  
adopted under division (D)(5) of this section, the ~~fire marshal~~ 37462  
superintendent shall issue a training program renewal certificate 37463  
to the applicant. 37464

The ~~fire marshal~~ superintendent may, in accordance with 37465  
Chapter 119. of the Revised Code, deny an application for, 37466  
suspend, or revoke a training program certificate or renewal 37467  
thereof ~~if he finds~~ after finding that the training program does 37468  
not or will not meet the standards for certification established 37469

in rules adopted under division (D)(4) of this section. 37470

(C) The ~~fire-marshal~~ superintendent may conduct or cause to 37471  
be conducted training programs for underground storage tank 37472  
systems installers as ~~he~~ the superintendent considers to be 37473  
necessary or appropriate. The ~~fire-marshal~~ superintendent is not 37474  
subject to division (B) of this section with respect to training 37475  
programs conducted by employees of the office of the ~~fire-marshal~~ 37476  
superintendent. 37477

(D) The ~~fire-marshal~~ superintendent shall adopt, and may 37478  
amend and rescind, rules doing all of the following: 37479

(1) Defining the activities that constitute supervision over 37480  
the installation, performance of major repairs on site to, 37481  
abandonment of, and removal of underground storage tank systems; 37482

(2) Establishing standards and procedures for certification 37483  
of underground storage tank systems installers; 37484

(3) Establishing standards and procedures for continuing 37485  
education for certification renewal; 37486

(4) Establishing standards and procedures for certification 37487  
of training programs for installers; 37488

(5) Establishing fees for applications for certifications 37489  
under this section, the examinations prescribed under division (A) 37490  
of this section, the issuance and renewal of certificates under 37491  
divisions (A) and (B) of this section, and attendance at training 37492  
programs conducted by the ~~fire-marshal~~ superintendent under 37493  
division (C) of this section. Fees received under this section 37494  
shall be credited to the underground storage tank administration 37495  
fund created in section 3737.02 of the Revised Code and shall be 37496  
used to defray the costs of implementing, administering, and 37497  
enforcing this section and the rules adopted thereunder, 37498  
conducting training sessions, and facilitating prevention of 37499  
releases. 37500

(6) That are necessary or appropriate for the implementation, 37501  
administration, and enforcement of this section. 37502

(E) Nothing in this section or the rules adopted under it 37503  
prohibits an owner or operator of an underground storage tank 37504  
system from installing, making major repairs on site to, 37505  
abandoning, or removing an underground storage tank system under 37506  
the supervision of an installer certified under division (A) of 37507  
this section who is a full-time or part-time employee of the owner 37508  
or operator. 37509

(F) On and after ~~the date one hundred eighty days after the~~ 37510  
~~effective date of this section~~ January 7, 1990, no person shall do 37511  
any of the following: 37512

(1) Install, make major repairs on site to, abandon, or 37513  
remove an underground storage tank system unless the activity is 37514  
performed under the supervision of a qualified individual who 37515  
holds a valid installer certificate issued under division (A) of 37516  
this section; 37517

(2) Act in the capacity of providing supervision for the 37518  
installation of, performance of major repairs on site to, 37519  
abandonment of, or removal of an underground storage tank system 37520  
unless the person holds a valid installer certificate issued under 37521  
division (A) of this section; 37522

(3) Except as provided in division (C) of this section, 37523  
sponsor a training program for underground storage tank systems 37524  
installers unless the person holds a valid training program 37525  
certificate issued under division (B) of this section. 37526

**Sec. 3737.882.** (A) If, after an examination or inspection, 37527  
the ~~fire marshal~~ superintendent of industrial compliance or ~~an the~~ 37528  
superintendent's assistant ~~fire marshal~~ finds that a release of 37529  
petroleum is suspected, the ~~fire marshal~~ superintendent shall take 37530

such action as the ~~fire marshal~~ superintendent considers necessary 37531  
to ensure that a suspected release is confirmed or disproved and, 37532  
if the occurrence of a release is confirmed, to correct the 37533  
release. These actions may include one or more of the following: 37534

(1) Issuance of a citation and order requiring the 37535  
responsible person to undertake, in a manner consistent with the 37536  
requirements of section 9003 of the "Resource Conservation and 37537  
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as 37538  
amended, applicable regulations adopted thereunder, and rules 37539  
adopted under division (B) of this section, such actions as are 37540  
necessary to protect human health and the environment, including, 37541  
without limitation, the investigation of a suspected release. 37542

(2) Requesting the attorney general to bring a civil action 37543  
for appropriate relief, including a temporary restraining order or 37544  
preliminary or permanent injunction, in the court of common pleas 37545  
of the county in which a suspected release is located or in which 37546  
the release occurred, to obtain the corrective action necessary to 37547  
protect human health and the environment. In granting any such 37548  
relief, the court shall ensure that the terms of the temporary 37549  
restraining order or injunction are sufficient to provide 37550  
comprehensive corrective action to protect human health and the 37551  
environment. 37552

(3) Entry onto premises and undertaking corrective action 37553  
with respect to a release of petroleum if, in the ~~fire marshal's~~ 37554  
superintendent's judgment, such action is necessary to protect 37555  
human health and the environment. Any corrective action undertaken 37556  
by the ~~fire marshal~~ superintendent or the superintendent's 37557  
assistant ~~fire marshal~~ under division (A)(3) of this section shall 37558  
be consistent with the requirements of sections 9003 and 9005 of 37559  
the "Resource Conservation and Recovery Act of 1976," 98 Stat. 37560  
3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, 37561  
respectively, as amended, applicable regulations adopted 37562

thereunder, and rules adopted under division (B) of this section. 37563

(B) The ~~fire-marshal~~ superintendent shall adopt, and may 37564  
amend and rescind, such rules as the ~~fire-marshal~~ superintendent 37565  
considers necessary to establish standards for corrective actions 37566  
for suspected and confirmed releases of petroleum and standards 37567  
for the recovery of costs incurred for undertaking corrective or 37568  
enforcement actions with respect to such releases. The rules also 37569  
shall include requirements for financial responsibility for the 37570  
cost of corrective actions for and compensation of bodily injury 37571  
and property damage incurred by third parties that are caused by 37572  
releases of petroleum. Rules regarding financial responsibility 37573  
shall, without limitation, require responsible persons to provide 37574  
evidence that the parties guaranteeing payment of the deductible 37575  
amount established under division (E) or (F) of section 3737.91 of 37576  
the Revised Code are, at a minimum, secondarily liable for all 37577  
corrective action and third-party liability costs incurred within 37578  
the scope of the deductible amount. The rules shall be consistent 37579  
with sections 9003 and 9005 of the "Resource Conservation and 37580  
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 37581  
Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and 37582  
applicable regulations adopted thereunder. 37583

(C)(1) No person shall violate or fail to comply with a rule 37584  
adopted under division (A) of section 3737.88 of the Revised Code 37585  
or division (B) of this section, and no person shall violate or 37586  
fail to comply with the terms of any order issued under division 37587  
(A) of section 3737.88 of the Revised Code or division (A)(1) of 37588  
this section. 37589

(2) Whoever violates division (C)(1) of this section or 37590  
division (F) of section 3737.881 of the Revised Code shall pay a 37591  
civil penalty of not more than ten thousand dollars for each day 37592  
that the violation continues. The ~~fire-marshal~~ superintendent may, 37593  
by order, assess a civil penalty under this division, or the ~~fire~~ 37594

~~marshal~~ superintendent may request the attorney general to bring a 37595  
civil action for imposition of the civil penalty in the court of 37596  
common pleas of the county in which the violation occurred. If the 37597  
~~fire marshal~~ superintendent determines that a responsible person 37598  
is in violation of division (C)(1) of this section or division (F) 37599  
of section 3737.881 of the Revised Code, the ~~fire marshal~~ 37600  
superintendent may request the attorney general to bring a civil 37601  
action for appropriate relief, including a temporary restraining 37602  
order or preliminary or permanent injunction, in the court of 37603  
common pleas of the county in which the underground storage tank 37604  
or, in the case of a violation of division (F)(3) of section 37605  
3737.881 of the Revised Code, the training program that is the 37606  
subject of the violation is located. The court shall issue a 37607  
temporary restraining order or an injunction upon a demonstration 37608  
that a violation of division (C)(1) of this section or division 37609  
(F) of section 3737.881 of the Revised Code has occurred or is 37610  
occurring. 37611

Any action brought by the attorney general under this 37612  
division is a civil action, governed by the Rules of Civil 37613  
Procedure and other rules of practice and procedure applicable to 37614  
civil actions. 37615

(D) Orders issued under division (A) of section 3737.88 of 37616  
the Revised Code and divisions (A)(1) and (C) of this section, and 37617  
appeals thereof, are subject to and governed by Chapter 3745. of 37618  
the Revised Code. Such orders shall be issued without the 37619  
necessity for issuance of a proposed action under that chapter. 37620  
For purposes of appeals of any such orders, the term "director" as 37621  
used in Chapter 3745. of the Revised Code includes the ~~fire~~ 37622  
~~marshal~~ superintendent and ~~an~~ the superintendent's assistant ~~fire~~ 37623  
~~marshal~~. 37624

(E) Any restrictions on the use of real property for the 37625  
purpose of achieving applicable standards pursuant to rules 37626

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 37658  
in the court of common pleas of the county in which the corrective 37659  
or enforcement action was undertaken. 37660

(B) If a responsible person alleges that a release of 37661  
petroleum was caused solely by an act or omission of a third party 37662  
or was caused solely by such an act or omission in combination 37663  
with an act of God or an act of war, the responsible person shall 37664  
pay to the state the cost of any corrective or enforcement action 37665  
undertaken by the ~~fire-marshal~~ superintendent under section 37666  
3737.882 of the Revised Code and any enforcement action undertaken 37667  
by the attorney general under this section or section 3737.882 of 37668  
the Revised Code with respect to the release and is entitled by 37669  
subrogation to all rights of the state to recover those costs from 37670  
the third party under division (C) of this section. The attorney 37671  
general, upon the request of the ~~fire-marshal~~ superintendent, 37672  
shall bring a civil action to recover payment from the responsible 37673  
party for those costs in the court of common pleas of the county 37674  
in which the corrective or enforcement action was undertaken. 37675

(C) If the responsible person proves that a release of 37676  
petroleum was caused solely by an act or omission of a third party 37677  
or by such an act or omission in combination with an act of God or 37678  
an act of war, the third party, notwithstanding any other 37679  
provision of the Revised Code or common law of this state, is 37680  
strictly liable to the state for any costs incurred for any 37681  
corrective or enforcement action undertaken by the ~~fire-marshal~~ 37682  
superintendent under section 3737.882 of the Revised Code and for 37683  
any enforcement action undertaken by the attorney general under 37684  
this section or section 3737.882 of the Revised Code with respect 37685  
to the release. The attorney general, upon the request of the ~~fire~~ 37686  
~~marshal~~ superintendent or any person entitled by subrogation to 37687  
the rights of the state under division (B) of this section, may 37688  
bring a civil action to recover those costs in the court of common 37689

pleas of the county in which the corrective or enforcement action 37690  
was undertaken. 37691

(D) No indemnification, hold harmless, or similar agreement 37692  
or conveyance shall be effective to transfer from the responsible 37693  
person, or from any other person who may be liable under division 37694  
(C) of this section, to another person the liability imposed by 37695  
this section. Nothing in this division bars either of the 37696  
following: 37697

(1) Any agreement to insure, hold harmless, or indemnify a 37698  
party to such an agreement for any liability under this section; 37699

(2) A cause of action that any person has or would have 37700  
against any other person by reason of subrogation or otherwise. 37701

(E) Nothing in this section limits the duty of a responsible 37702  
person under section 3737.882 of the Revised Code and rules 37703  
adopted under it to notify the fire marshal and to take action 37704  
with respect to a release of petroleum. 37705

(F) Nothing in this section limits the right of the federal 37706  
government to recover from the responsible person any federal 37707  
money expended for any corrective or enforcement action as a 37708  
result of a release of petroleum. 37709

**Sec. 3737.91.** (A) There is hereby created the petroleum 37710  
underground storage tank financial assurance fund, which shall be 37711  
in the custody of the treasurer of state, but is not a part of the 37712  
state treasury. The fund shall consist of moneys from the 37713  
following sources: 37714

(1) All fees collected under divisions (B) and (F) of this 37715  
section and all supplemental fees collected under division (C) of 37716  
this section; 37717

(2) Interest earned on moneys in the fund; 37718

(3) Appropriations to the fund from the general revenue fund; 37719

(4) The proceeds of revenue bonds issued under sections 37720  
3737.90 to 3737.948 of the Revised Code, provided that upon 37721  
resolution of the petroleum underground storage tank release 37722  
compensation board created in section 3737.90 of the Revised Code, 37723  
all or part of those proceeds may be deposited into a separate 37724  
account of the fund. Chapters 131. and 135. of the Revised Code do 37725  
not apply to the establishment, deposit, investment, application, 37726  
and safeguard of any such account and moneys in any such account. 37727

(B) For the purposes of paying the costs of implementing and 37728  
administering this section and sections 3737.90 and 3737.92 of the 37729  
Revised Code and rules adopted under them; payment or 37730  
reimbursement of corrective action costs under section 3737.92 of 37731  
the Revised Code; compensating third parties for bodily injury or 37732  
property damage under that section; and payment of principal and 37733  
interest on revenue bonds issued under sections 3737.90 to 37734  
3737.948 of the Revised Code to raise capital for the fund, there 37735  
is hereby assessed an annual petroleum underground storage tank 37736  
financial assurance fee on each tank comprising an underground 37737  
storage tank or an underground storage tank system that contains 37738  
or has contained petroleum and for which a responsible person is 37739  
required to demonstrate financial responsibility by rules adopted 37740  
by the ~~fire marshal~~ superintendent of industrial compliance under 37741  
division (B) of section 3737.882 of the Revised Code. The fee 37742  
assessed by this division shall be paid to the board by a 37743  
responsible person for each tank that is subject to the fee. The 37744  
fee shall be paid not later than the first day of July of each 37745  
year, except that in 1989 the fee shall be paid by either the 37746  
first day of September or ninety days after July 11, 1989, 37747  
whichever is later. The fee is in addition to any fee established 37748  
by the ~~fire marshal~~ superintendent under section 3737.88 of the 37749  
Revised Code. 37750

The amount of the annual fee due in 1989 and 1990 is one 37751

hundred fifty dollars per tank per year. In 1991 and subsequent 37752  
years the board shall establish the amount of the annual fee in 37753  
accordance with this division. Not later than the first day of 37754  
April of 1991 and each subsequent year, the board, in consultation 37755  
with the administrative agent of the fund with whom the board has 37756  
entered into a contract under division (B)(3) of section 3737.90 37757  
of the Revised Code, if any, shall determine the amount of the 37758  
annual fee to be assessed in that year and shall adopt rules in 37759  
accordance with Chapter 119. of the Revised Code to establish the 37760  
fee at that amount. The fee shall be established at an amount 37761  
calculated to maintain the continued financial soundness of the 37762  
fund, provided that if the unobligated balance of the fund exceeds 37763  
forty-five million dollars on the date that an annual 37764  
determination is made, the board may assess a fee in the year to 37765  
which the determination applies only to the extent required in or 37766  
by, or necessary to comply with covenants or other requirements 37767  
in, revenue bonds issued under sections 3737.90 to 3737.948 of the 37768  
Revised Code or in proceedings or other covenants or agreements 37769  
related to such bonds. Not later than the first day of May of 1991 37770  
and each subsequent year, the board shall notify each responsible 37771  
person by certified mail of the amount of the annual fee per tank 37772  
due in that year. As used in this paragraph, "proceedings" has the 37773  
same meaning as in section 133.01 of the Revised Code. 37774

If a responsible person is both the owner and operator of a 37775  
tank, the responsible person shall pay any annual fee assessed 37776  
under this division in compliance with this division and the rules 37777  
adopted thereunder. If the owner of the tank and the operator of 37778  
the tank are not the same person, any annual fee assessed under 37779  
this division in compliance with this division and the rules 37780  
adopted thereunder shall be paid by one of the responsible 37781  
persons; however, all such responsible persons are liable for 37782  
noncompliance with this division. 37783

(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~~ 37815  
superintendent under division (B) of section 3737.882 of the 37816  
Revised Code for the deductible amount established under division 37817  
(E) of this section or, when appropriate, the reduced deductible 37818  
amount established under division (F) of this section. If the 37819  
responsible person utilizes self-insurance as a financial 37820  
responsibility mechanism, the responsible person shall provide the 37821  
board with an affidavit in which the responsible party certifies 37822  
that all documentation submitted to the board is true and 37823  
accurate; 37824

(c) Certified to the board that for each petroleum 37825  
underground storage tank system for which a certificate of 37826  
coverage is sought, the responsible person is in compliance with 37827  
applicable rules for petroleum underground storage tank systems 37828  
that have been adopted by the ~~fire marshal~~ superintendent under 37829  
section 3737.88 of the Revised Code. 37830

The certificate of coverage shall state the amount of 37831  
coverage to which the responsible person is entitled from the fund 37832  
pursuant to division (D)(3) of this section and the time period 37833  
for which the certificate provides that coverage. An issued 37834  
certificate of coverage is subject to the condition that the 37835  
holder timely pay any supplemental fee assessed under division (C) 37836  
of this section during the time that the certificate is in effect. 37837

(2) The board shall not issue a certificate of coverage to 37838  
any responsible person who fails to comply with divisions 37839  
(D)(1)(a), (b), and (c) of this section. 37840

(3) The maximum disbursement from the fund for any single 37841  
release of petroleum is the difference between the deductible 37842  
amount established under division (E) of this section or, when 37843  
appropriate, the reduced deductible amount established under 37844  
division (F) of this section and one million dollars. The maximum 37845  
disbursement from the fund during any fiscal year on behalf of any 37846

responsible person shall not exceed in the aggregate one million 37847  
dollars less the deductible amount if the responsible person owns 37848  
or operates not more than one hundred tanks comprising underground 37849  
petroleum storage tanks or underground petroleum storage tank 37850  
systems, shall not exceed in the aggregate two million dollars 37851  
less the deductible amount if the responsible person owns or 37852  
operates not more than two hundred such tanks, shall not exceed in 37853  
the aggregate three million dollars less the deductible amount if 37854  
the responsible person owns or operates not more than three 37855  
hundred such tanks, and shall not exceed in the aggregate four 37856  
million dollars less the deductible amount if the responsible 37857  
person owns or operates more than three hundred such tanks. The 37858  
maximum disbursement from the fund for any single release or for 37859  
any fiscal year under this division does not in any manner limit 37860  
the liability of a responsible person for a release of petroleum. 37861

(E)(1) Except as otherwise provided in division (F) of this 37862  
section, no responsible person is eligible to receive moneys from 37863  
the fund under section 3737.92 of the Revised Code until the 37864  
responsible person demonstrates to the board financial 37865  
responsibility for the first fifty thousand dollars of the cost 37866  
for corrective action for, and compensating third parties for 37867  
bodily injury and property damage caused by, accidental releases 37868  
of petroleum from an underground storage tank owned or operated by 37869  
the responsible party. The fifty thousand dollar amount is the 37870  
deductible amount for the purposes of this section and section 37871  
3737.92 of the Revised Code. 37872

(2) The board, in consultation with the fund's administrative 37873  
agent, if any, may, by rules adopted in accordance with Chapter 37874  
119. of the Revised Code, establish for any fiscal year a 37875  
deductible amount that differs from fifty thousand dollars. The 37876  
deductible amount established by the board shall be such an amount 37877  
as to maintain the financial soundness of the fund. Any action of 37878

the board to establish a differing deductible amount or to alter a 37879  
deductible amount previously established by it shall be taken 37880  
concurrently with the establishment under division (B) of this 37881  
section of the annual fee due on the first day of the fiscal year 37882  
in which the deductible amount will apply. If the deductible 37883  
amount established under this division differs from that in effect 37884  
at the time of the board's action, the board shall notify each 37885  
responsible person of the change by certified mail not later than 37886  
the first day of May preceding the effective date of the change. 37887

(F)(1) Any responsible person owning, or owning or operating, 37888  
a total of six or fewer petroleum underground storage tanks may 37889  
elect in calendar years 1989 and 1990 to pay twice the amount of 37890  
the per tank annual fee for each tank assessed under division (B) 37891  
of this section in order to reduce the amount of the deductible 37892  
established in division (E) of this section to the total amount of 37893  
ten thousand dollars. The election shall be available only at the 37894  
time of the payment of the annual fee and any supplemental fee. 37895  
The election shall not be retroactively applied. 37896

(2) Any responsible person owning, or owning or operating, a 37897  
total of six or fewer petroleum underground storage tanks may 37898  
elect in calendar year 1991 and in each subsequent year to pay an 37899  
additional fee at an amount established by the board in addition 37900  
to the per tank annual fee assessed under division (B) of this 37901  
section in order to reduce the deductible amount established under 37902  
division (E) of this section. In calendar year 1991 and in each 37903  
subsequent year, the board shall establish the amount of the 37904  
additional fee and the reduced deductible amount. In determining 37905  
the amount of the additional fee and the reduced deductible 37906  
amount, the board shall take into consideration the effect of the 37907  
additional claims paid under section 3737.92 of the Revised Code 37908  
to responsible persons making an election under division (F)(2) of 37909  
this section and balance that consideration with such factors as 37910

the availability of liability insurance, the difficulty of proving 37911  
financial responsibility pursuant to the rules adopted by the ~~fire~~ 37912  
~~marshal~~ superintendent under division (B) of section 3737.882 of 37913  
the Revised Code, and the hardship created on small owners and 37914  
operators of petroleum underground storage tanks by an increase in 37915  
either the additional fee or the reduced deductible amount. 37916

(3) Any responsible person owning, or owning or operating, a 37917  
total of six or fewer petroleum underground storage tanks who 37918  
elects to pay the additional fee under divisions (F)(1) and (2) of 37919  
this section shall pay any per tank supplemental fee assessed 37920  
under division (C) of this section. 37921

(G) If the director of the fund determines that a responsible 37922  
person has failed to comply with division (B), (C), or (F) of this 37923  
section, the director of the fund shall notify each responsible 37924  
person for the petroleum underground storage tank of the 37925  
noncompliance. If, within thirty days after the notification, the 37926  
responsible person fails to pay the applicable fee or any fee 37927  
previously assessed upon the responsible person under this 37928  
section, the director of the fund shall issue an order requiring 37929  
the responsible person to pay all of the fees the responsible 37930  
person owes to the fund and an additional late payment fee in the 37931  
amount of one thousand dollars to the fund. 37932

If a responsible person fails to comply with any order of the 37933  
director of the fund within thirty days after the issuance of the 37934  
order, the director shall notify the ~~fire-marshal~~ superintendent 37935  
of that noncompliance. Upon the request of the director of the 37936  
fund, the attorney general may bring a civil action for 37937  
appropriate relief, including a temporary restraining order or 37938  
preliminary or permanent injunction, in the court of common pleas 37939  
of the county in which the petroleum underground storage tank that 37940  
is the subject of the order is located. The court shall issue an 37941  
injunction upon a demonstration that a failure to comply with the 37942

director's order has occurred or is occurring. 37943

Any orders issued by the director of the fund under this 37944  
division may be appealed by the responsible person under division 37945  
(F) of section 3737.92 of the Revised Code. For the purpose of an 37946  
appeal of any order of the director of the fund, "determination" 37947  
as used in that division includes any order of the director of the 37948  
fund. The filing of a notice of appeal under this division does 37949  
not operate as a stay of any order of the director of the fund. 37950

**Sec. 3737.92.** (A) The petroleum underground storage tank 37951  
release compensation board created in section 3737.90 of the 37952  
Revised Code shall use moneys in the petroleum underground storage 37953  
tank financial assurance fund established in section 3737.91 of 37954  
the Revised Code exclusively for the following purposes: 37955

(1) Payment of the expenses of administering the fund; 37956

(2) Payment of the administrative expenses of the board; 37957

(3) Payment to or reimbursement of responsible persons for 37958  
the necessary cost of corrective action for and compensating third 37959  
parties for bodily injury and property damage caused by accidental 37960  
releases of petroleum in accordance with this section, provided 37961  
that proceeds from the issuance of revenue bonds under sections 37962  
3737.90 to 3737.948 of the Revised Code may only be used for the 37963  
payment to or reimbursement of responsible persons for the 37964  
necessary costs of corrective action for improving property 37965  
damaged by accidental releases of petroleum in accordance with 37966  
this section; 37967

(4) Deposit into any funds provided for in a resolution or 37968  
resolutions of the board in connection with any revenue bonds 37969  
issued under sections 3737.90 to 3737.948 of the Revised Code; 37970

(5) Placement of petroleum underground storage tank linked 37971  
deposits under sections 3737.95 to 3737.98 of the Revised Code. 37972

(B) A responsible person seeking to obtain from the fund 37973  
payment of or reimbursement for corrective action costs for an 37974  
accidental release of petroleum shall submit a claim to the board 37975  
in accordance with and containing the information required by 37976  
rules adopted by the board in accordance with Chapter 119. of the 37977  
Revised Code. Before authorizing any disbursement from the fund to 37978  
pay all or any portion of a claim submitted under this division, 37979  
the director of the fund shall first determine that the claim 37980  
meets all of the following criteria: 37981

(1) The responsible person is eligible under division (D) of 37982  
this section to receive payment of or reimbursement for the 37983  
corrective action costs from the fund; 37984

(2) The corrective action performed or to be performed has 37985  
been authorized by the ~~fire marshal~~ superintendent of industrial 37986  
compliance under section 3737.882 of the Revised Code and rules 37987  
adopted under that section; 37988

(3) The costs of performing the corrective action are 37989  
necessary to comply with the rules of the ~~fire marshal~~ 37990  
superintendent adopted under sections 3737.88 and 3737.882 of the 37991  
Revised Code governing corrective actions. 37992

(C) A responsible person seeking to obtain from the fund 37993  
payment of or reimbursement for compensation paid or to be paid to 37994  
third parties for bodily injury or property damage caused by an 37995  
accidental release of petroleum shall submit a claim to the board 37996  
in accordance with and containing the information required by 37997  
rules adopted by the board in accordance with Chapter 119. of the 37998  
Revised Code. Before authorizing any disbursement from the fund to 37999  
pay all or any portion of a claim submitted under this division, 38000  
the director of the fund shall first determine that the claim 38001  
meets both of the following criteria: 38002

(1) The responsible person who submitted the claim is 38003

eligible under division (D) of this section to receive payment of 38004  
or reimbursement for the third-party compensation from the fund; 38005

(2) There is a legally enforceable judgment against the 38006  
responsible person for bodily injury or property damage to one or 38007  
more third parties resulting from the release in the amount stated 38008  
in the claim, or, if there is a settlement with a third party as a 38009  
result of the release, the amount of the settlement stated in the 38010  
claim is reasonable. 38011

(D) A responsible person is not eligible to receive payment 38012  
or reimbursement from the fund under division (B) or (C) of this 38013  
section unless all of the following conditions are met: 38014

(1) At the time that the release was first suspected or 38015  
confirmed, a responsible person possessed a valid certificate of 38016  
coverage issued by the board under division (D) of section 3737.91 38017  
of the Revised Code for the petroleum underground storage tank 38018  
system from which the release occurred; 38019

(2) One of the following applies: 38020

(a) The petroleum underground storage tank system from which 38021  
the release occurred was registered in compliance with rules 38022  
adopted by the ~~fire-marshal~~ superintendent under section 3737.88 38023  
of the Revised Code when the occurrence of the release was first 38024  
suspected or confirmed; 38025

(b) The ~~fire-marshal~~ superintendent has recommended that 38026  
payment or reimbursement be made because good cause existed for 38027  
the responsible person's failure to have so registered the 38028  
petroleum underground storage tank system, and the responsible 38029  
person has registered the petroleum underground storage tank 38030  
system with the ~~fire-marshal~~ superintendent and paid all back 38031  
registration fees payable under those rules for registration of 38032  
the system from the time the responsible person should have, but 38033  
failed to register the system. 38034

(3) The ~~fire marshal~~ superintendent has determined that, when 38035  
the claim was filed, a responsible person was in compliance with 38036  
all orders issued under sections 3737.88 and 3737.882 of the 38037  
Revised Code regarding the petroleum underground storage tank 38038  
system from which the release occurred; 38039

(4) A responsible person demonstrates financial 38040  
responsibility for the deductible amount applicable under section 38041  
3737.91 of the Revised Code for the petroleum underground storage 38042  
tank system from which the release has occurred; 38043

(5) The responsible person has not falsified any attestation 38044  
contained on a registration application required by rules adopted 38045  
under section 3737.88 of the Revised Code; 38046

(6) The petroleum underground storage tank system from which 38047  
the release occurred was in compliance with rules, other than 38048  
rules regarding registration, adopted by the ~~fire marshal~~ 38049  
superintendent under section 3737.88 of the Revised Code when the 38050  
occurrence of the release was first suspected or confirmed. 38051

(E) The director of the fund may make a determination to 38052  
approve or disapprove a claim and to authorize a disbursement from 38053  
the fund for payment of an approved claim administratively without 38054  
a hearing. If the director of the fund makes a determination 38055  
regarding a claim that is inconsistent with a recommendation or 38056  
determination of the ~~fire marshal~~ superintendent for purposes of 38057  
division (B)(2) or (3) or (D)(2), (3), or (5) of this section, the 38058  
director shall detail those inconsistencies in a written finding 38059  
of fact before authorizing any disbursement from the fund for 38060  
payment of the claim. Upon making a determination of a claim under 38061  
this section, the director of the fund shall provide written 38062  
notice of the determination and a copy of any written finding of 38063  
fact accompanying the determination to the responsible person who 38064  
submitted the claim and to the ~~fire marshal~~ superintendent. 38065

(F) If the responsible person who submitted a claim under 38066  
this section or the ~~fire marshal~~ superintendent objects to the 38067  
determination of the claim made by the director of the fund and 38068  
files an objection to the determination with the board within 38069  
thirty days after the mailing of the notification of the 38070  
determination and finding of fact, if any, the board shall appoint 38071  
a referee to conduct an adjudication hearing on the determination. 38072  
The adjudication hearing shall be conducted in accordance with 38073  
section 119.09 of the Revised Code. For the purposes of 38074  
adjudication hearings on determinations of the director of the 38075  
fund, the term "agency" as used in that section includes the 38076  
board. 38077

If any party is aggrieved by an order of the board made after 38078  
the adjudication hearing on the determination, the party may 38079  
appeal the order in accordance with section 119.12 of the Revised 38080  
Code. For the purposes of appeals of any such orders, the ~~terms~~ 38081  
~~"fire marshal" and term~~ term "building" as used in that section ~~include~~ 38082  
~~the board and includes the~~ includes the petroleum underground storage tank, 38083  
~~respectively.~~ 38084

(G) Neither the state, the board, nor the director of the 38085  
fund is liable to any responsible person to pay the cost of any 38086  
corrective action or of third party compensation for a release of 38087  
petroleum when the fund is depeleted of moneys because the amount 38088  
of the claims made on the fund exceeds the unobligated balance in 38089  
the fund. However, upon assessing and collecting a supplemental 38090  
fee under division (C) of section 3737.91 of the Revised Code, the 38091  
board shall again consider the claim of a responsible person whose 38092  
claim was not initially honored because of the insufficiency of 38093  
unobligated balances in the fund to pay that person's claim. 38094

The inability of a responsible person to obtain money from 38095  
the fund does not in any manner limit the liability of a 38096  
responsible person for a release of petroleum. 38097

(H) Neither the right to apply for payment or reimbursement 38098  
nor the receipt of payment or reimbursement under this section 38099  
limits the liability of any responsible person to the state for 38100  
the payment of any corrective action or enforcement costs under 38101  
sections 3737.882 and 3737.89 of the Revised Code, or to any third 38102  
party for bodily injury or property damage, resulting from a 38103  
release of petroleum from an underground storage tank system owned 38104  
or operated by the responsible person. Neither the right to apply 38105  
for payment or reimbursement under this section nor any delay by 38106  
the board or director of the fund in acting upon any claim for any 38107  
such payment or reimbursement limits or postpones the duty of any 38108  
responsible person to comply with any order of the ~~fire marshal~~ 38109  
superintendent issued under section 3737.88 or 3737.882 of the 38110  
Revised Code. 38111

(I) The board, upon payment to or reimbursement of a 38112  
responsible person from the fund for corrective action costs or 38113  
the cost of compensation to third parties for bodily injury or 38114  
property damage, is entitled by subrogation to all rights of the 38115  
responsible person to recover those costs from any other person. 38116  
The attorney general, upon the request of the board, may bring a 38117  
civil action to recover those costs in the court of common pleas 38118  
of the county in which the release of petroleum occurred. 38119

(J) Nothing in this section limits the right of the federal 38120  
government to recover from the responsible person any federal 38121  
money expended for any corrective or enforcement action as a 38122  
result of a release of petroleum. 38123

(K) If the responsible person described in division (D) of 38124  
this section is a state agency, any payments or reimbursements 38125  
received by the state agency under this section shall be deposited 38126  
into the fund from which the expenditures for the corrective 38127  
action or third party compensation originally were made. 38128

**Sec. 3737.98.** (A) Upon placement of a petroleum underground 38129  
storage tank linked deposit with an eligible lending institution, 38130  
the institution shall lend the funds to each approved eligible 38131  
owner listed in the petroleum underground storage tank linked 38132  
deposit loan package required by division (D) of section 3737.96 38133  
of the Revised Code and in accordance with the linked deposit 38134  
agreement required by division (C) of section 3737.97 of the 38135  
Revised Code. The loan shall be at a rate below the present 38136  
borrowing rate determined in the agreement with the petroleum 38137  
underground storage tank release compensation board applicable to 38138  
each eligible owner. A certificate of compliance with this 38139  
section, in the form and manner prescribed by the board, shall be 38140  
required for the eligible lending institution. The borrowing rate 38141  
set by the agreement shall be uniform and may not be revised 38142  
during the period of the deposit. 38143

(B) The board shall take any and all steps necessary to 38144  
implement the petroleum underground storage tank linked deposit 38145  
program and to monitor the compliance of eligible lending 38146  
institutions and eligible owners, including the development of 38147  
guidelines for those purposes as necessary. 38148

(C) The board and the ~~fire marshal~~ superintendent of 38149  
industrial compliance shall notify owners of petroleum underground 38150  
storage tanks of the linked deposit program and its eligibility 38151  
requirements. Annually, on or before the first day of February, 38152  
the board shall report on the petroleum underground storage tank 38153  
linked deposit program for the preceding calendar year to the 38154  
governor, speaker of the house of representatives, and president 38155  
of the senate. The speaker of the house of representatives and 38156  
president of the senate shall transmit copies of the report to the 38157  
~~chairmen~~ chairpersons of their respective standing committees that 38158  
customarily consider legislation regarding underground storage 38159

tanks and the environment. The report shall set forth the 38160  
petroleum underground storage tank linked deposits made by the 38161  
board during the preceding year and shall include information 38162  
regarding the nature, terms, and amounts of loans upon which the 38163  
linked deposits were made and the eligible owners to which the 38164  
loans were made. 38165

**Sec. 3741.14.** (A) Each filling station offering self-service 38166  
shall be operated in accordance with national fire protection 38167  
association standard number 30A-1990, and the provisions of the 38168  
"Occupational Safety and Health Act of 1970," 84 Stat. 1590, 5 38169  
U.S.C.A. 5108, and any amendments thereto and standards adopted 38170  
thereunder. 38171

(B) The ~~fire marshal~~ board of building and fire standards 38172  
shall adopt, as part of the state fire code, rules governing the 38173  
equipment, operation, and maintenance of filling stations. The 38174  
rules shall be such as are necessary for the protection of the 38175  
persons and property of the public, but shall require as a minimum 38176  
that: 38177

(1) Gasoline and other flammable or combustible liquids be 38178  
dispensed only by a person who is not smoking; 38179

(2) A sign, in block letters at least four inches in height, 38180  
be conspicuously displayed on each gasoline pump island where 38181  
self-service is offered stating that it is a self-service island; 38182

(3) Signs giving instructions for the operation of gasoline 38183  
dispensing equipment, in block letters, be conspicuously posted at 38184  
each filling station offering self-service; 38185

(4) A sign bearing the following words in block letters be 38186  
conspicuously posted on each gasoline pump island where 38187  
self-service is offered: 38188

(a) "STOP ENGINE"; 38189

(b) "NO SMOKING";	38190
(c) "WARNING--IT IS UNLAWFUL AND DANGEROUS TO DISPENSE GASOLINE INTO UNAPPROVED CONTAINERS";	38191 38192
(d) "PERSONS USING DISPENSERS WITH HOLD-OPEN LATCHES MUST REMAIN AT THE REFUELING POINT DURING REFUELING".	38193 38194
(5) All signs required by this section be constructed of rigid, weather-resistant material;	38195 38196
(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.	38197 38198 38199 38200 38201
(C) The <del>fire marshal</del> <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.	38202 38203 38204 38205
(D) Nothing in this section shall be interpreted to prohibit the <del>fire marshal</del> <u>board</u> from adopting reasonable rules governing the safety of self-service flammable or combustible liquid dispensing equipment.	38206 38207 38208 38209
<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>	38210 38211 38212 38213 38214 38215 38216 38217 38218 38219

revisions in the proposed rules or until a period of sixty days 38220  
has elapsed since the proposed rules, whichever occurs first. The 38221  
board shall consider any recommendations made by the committee 38222  
before adopting the proposed rules, but may accept, reject, or 38223  
modify the recommendations so long as any rule proposed is 38224  
consistent with the state fire code adopted pursuant to section 38225  
3737.82 of the Revised Code. The board shall adopt the rules under 38226  
this section in accordance with Chapter 119. of the Revised Code. 38227

(B) In proposing the rules to the board for the 38228  
implementation and administration of the aboveground petroleum 38229  
storage tank program, the superintendent shall require a method of 38230  
permitting for the installation, removal, modification, and repair 38231  
of aboveground storage tanks containing petroleum or petroleum 38232  
products at terminal and bulk plants in the state as those terms 38233  
are defined in section 3737.84 of the Revised Code. The 38234  
superintendent shall propose rules allowing for the delegation of 38235  
authority to conduct inspections related to permitting of 38236  
aboveground petroleum storage tanks. The superintendent may 38237  
consider and propose rules for annual registration of aboveground 38238  
petroleum storage tanks and the superintendent may propose fees 38239  
for registration, permitting, and inspection as are consistent 38240  
with this program. Within seven days of the receipt of an 38241  
application for a permit under this section, the superintendent 38242  
shall notify in writing the state fire marshal and the fire 38243  
department having jurisdiction of the proposed permitted activity. 38244  
The fire marshal or the fire department having jurisdiction may 38245  
waive the notification requirements of this paragraph. 38246

(C) Nothing in this section shall prohibit the state fire 38247  
marshal or a certified fire safety inspector having jurisdiction 38248  
from inspecting terminal and bulk plants in this state. If, upon 38249  
inspection or investigation, the fire marshal, an assistant fire 38250  
marshal, or a certified fire safety inspector having jurisdiction 38251

finds a violation of the state fire code or sections 3737.41 to 38252  
3737.46 of the Revised Code, the fire marshal, an assistant fire 38253  
marshal, or a certified fire safety inspector may take such 38254  
actions as provided for by sections 3737.41 to 3737.46 of the 38255  
Revised Code or rules adopted pursuant to Chapter 3737. of the 38256  
Revised Code. 38257

(D) When any permit is issued by the superintendent, the 38258  
structure and every particular thereof represented by that permit 38259  
and disclosed therein shall, in the absence of fraud or a serious 38260  
safety hazard, be conclusively presumed to comply with Chapter 38261  
3737. of the Revised Code or any rule issued pursuant thereto, if 38262  
constructed, altered or repaired in accordance with that permit 38263  
and any such rule in effect at the time of approval. 38264

(E) Upon application by an affected party regulated under 38265  
this section, the superintendent may grant a variance from the 38266  
state fire code or rules adopted for the implementation and 38267  
administration of the aboveground petroleum storage tank program, 38268  
if the superintendent determines that a literal enforcement of the 38269  
requirement will result in unnecessary hardship and the variance 38270  
will not be contrary to the public health, safety, or welfare. 38271

**Sec. 3743.57.** (A) All fees collected by the fire marshal for 38272  
licenses or permits issued pursuant to this chapter shall be 38273  
deposited into the state fire marshal's fund, and interest earned 38274  
on the amounts in the fund shall be credited by the treasurer of 38275  
state to the fund. 38276

(B) There is hereby established in the state treasury the 38277  
fire marshal's fireworks training and education fund. The fire 38278  
marshal shall deposit all assessments paid under this division 38279  
into the state treasury to the credit of the fund. Each fireworks 38280  
manufacturer and fireworks wholesaler licensed under this chapter 38281  
shall pay assessments to the fire marshal for deposit into the 38282

fund as required by this division. 38283

The fire marshal shall impose an initial assessment upon each 38284  
licensed fireworks manufacturer and wholesaler in order to 38285  
establish a fund balance of fifteen thousand dollars. The fund 38286  
balance shall at no time exceed fifteen thousand dollars, and the 38287  
fire marshal shall impose no further assessments unless the fund 38288  
balance is reduced to five thousand dollars or less. If the fund 38289  
balance is reduced to five thousand dollars or less, the fire 38290  
marshal shall impose an additional assessment upon each licensed 38291  
fireworks manufacturer and wholesaler in order to increase the 38292  
fund balance to fifteen thousand dollars. The fire marshal shall 38293  
determine the amount of the initial assessment on each 38294  
manufacturer or wholesaler and each additional assessment by 38295  
dividing the total amount needed to be paid into the fund by the 38296  
total number of fireworks manufacturers and wholesalers licensed 38297  
under this chapter. If a licensed fireworks manufacturer or 38298  
wholesaler fails to pay an assessment required by this division 38299  
within thirty days after receiving notice of the assessment, the 38300  
fire marshal, in accordance with Chapter 119. of the Revised Code, 38301  
may refuse to issue, or may revoke, the appropriate license. 38302

The fire marshal shall in the fire marshal's discretion use 38303  
amounts in the fund for fireworks training and education purposes, 38304  
including, but not limited to, the creation of educational and 38305  
training programs, attendance by the fire marshal and the fire 38306  
marshal's employees at conferences and seminars, the payment of 38307  
travel and meal expenses associated with such attendance, 38308  
participation by the fire marshal and the fire marshal's employees 38309  
in committee meetings and other meetings related to pyrotechnic 38310  
codes, and the payment of travel and meal expenses associated with 38311  
such participation. The use of the fund shall comply with rules of 38312  
the department of ~~commerce~~ public safety, policies and procedures 38313  
established by the director of budget and management, and all 38314

other applicable laws. 38315

**Sec. 3743.75.** (A) During the period beginning on ~~the~~ 38316  
~~effective date of this section June 29, 2001,~~ and ending on 38317  
December 15, 2005, the state fire marshal shall not do any of the 38318  
following: 38319

(1) Issue a license as a manufacturer of fireworks under 38320  
sections 3743.02 and 3743.03 of the Revised Code to a person for a 38321  
particular fireworks plant unless that person possessed such a 38322  
license for that fireworks plant immediately prior to ~~the~~ 38323  
~~effective date of this section June 29, 2001;~~ 38324

(2) Issue a license as a wholesaler of fireworks under 38325  
sections 3743.15 and 3743.16 of the Revised Code to a person for a 38326  
particular location unless that person possessed such a license 38327  
for that location immediately prior to ~~the effective date of this~~ 38328  
~~section June 29, 2001;~~ 38329

(3) Except as provided in division (B) of this section, 38330  
approve the transfer of a license as a manufacturer or wholesaler 38331  
of fireworks issued under this chapter to any location other than 38332  
a location for which a license was issued under this chapter 38333  
immediately prior to ~~the effective date of this section June 29,~~ 38334  
2001. 38335

(B) Division (A)(3) of this section does not apply to a 38336  
transfer that the state fire marshal approves under division 38337  
(D)(2) of section 3743.17 of the Revised Code. Section 3743.59 of 38338  
the Revised Code does not apply to this section. 38339

(C) The department of ~~commerce~~ public safety and the division 38340  
of state fire marshal shall devise, by December 15, 2005, a 38341  
proposal to provide for the issuance of manufacturer and 38342  
wholesaler of fireworks licenses that is based upon demographics 38343  
and designed to ensure the safety of the public and send a copy of 38344

the proposal to the president of the senate and speaker of the 38345  
house of representatives. 38346

**Sec. 3745.04.** As used in this section, "any person" means any 38347  
individual, any partnership, corporation, association, or other 38348  
legal entity, or any political subdivision, instrumentality, or 38349  
agency of a state, whether or not the individual or legal entity 38350  
is an applicant for or holder of a license, permit, or variance 38351  
from the environmental protection agency, and includes any 38352  
department, agency, or instrumentality of the federal government 38353  
that is an applicant for or holder of a license, permit, or 38354  
variance from the environmental protection agency. 38355

As used in this section, "action" or "act" includes the 38356  
adoption, modification, or repeal of a rule or standard, the 38357  
issuance, modification, or revocation of any lawful order other 38358  
than an emergency order, and the issuance, denial, modification, 38359  
or revocation of a license, permit, lease, variance, or 38360  
certificate, or the approval or disapproval of plans and 38361  
specifications pursuant to law or rules adopted thereunder. 38362

Any person who was a party to a proceeding before the 38363  
director of environmental protection may participate in an appeal 38364  
to the environmental review appeals commission for an order 38365  
vacating or modifying the action of the director or a local board 38366  
of health, or ordering the director or board of health to perform 38367  
an act. The environmental review appeals commission has exclusive 38368  
original jurisdiction over any matter that may, under this 38369  
section, be brought before it. 38370

The person so appealing to the commission shall be known as 38371  
appellant, and the director and any party to a proceeding 38372  
substantially supporting the finding from which the appeal is 38373  
taken shall be known as appellee, except that when an appeal 38374  
involves a license to operate a disposal site or facility, the 38375

local board of health or the director of environmental protection, 38376  
and any party to a proceeding substantially supporting the finding 38377  
from which the appeal is taken, shall, as appropriate, be known as 38378  
the appellee. Appellant and appellee shall be deemed to be parties 38379  
to the appeal. 38380

The appeal shall be in writing and shall set forth the action 38381  
complained of and the grounds upon which the appeal is based. 38382

The appeal shall be filed with the commission within thirty 38383  
days after notice of the action. Notice of the filing of the 38384  
appeal shall be filed with the appellee within three days after 38385  
the appeal is filed with the commission. 38386

The appeal shall be accompanied by a filing fee of ~~sixty~~ 38387  
seventy dollars, which the commission, in its discretion, may 38388  
~~waive in cases of~~ reduce if by affidavit the appellant 38389  
demonstrates that payment of the full amount of the fee would 38390  
cause extreme hardship. 38391

Within seven days after receipt of the notice of appeal, the 38392  
director or local board of health shall prepare and certify to the 38393  
commission a record of the proceedings out of which the appeal 38394  
arises, including all documents and correspondence, and a 38395  
transcript of all testimony. 38396

Upon the filing of the appeal, the commission shall fix the 38397  
time and place at which the hearing on the appeal will be held. 38398  
The commission shall give the appellant and the appellee at least 38399  
ten days' written notice thereof by certified mail. The commission 38400  
shall hold the hearing within thirty days after the notice of 38401  
appeal is filed. The commission may postpone or continue any 38402  
hearing upon its own motion or upon application of the appellant 38403  
or of the appellee. 38404

The filing of an appeal does not automatically suspend or 38405  
stay execution of the action appealed from. Upon application by 38406

the appellant, the commission may suspend or stay the execution 38407  
pending immediate determination of the appeal without interruption 38408  
by continuances, other than for unavoidable circumstances. 38409

As used in this section and sections 3745.05 and 3745.06 of 38410  
the Revised Code, "director of environmental protection" and 38411  
"director" are deemed to include the director of agriculture and 38412  
"environmental protection agency" is deemed to include the 38413  
department of agriculture with respect to actions that are 38414  
appealable to the commission under Chapter 903. of the Revised 38415  
Code. 38416

**Sec. 3745.11.** (A) Applicants for and holders of permits, 38417  
licenses, variances, plan approvals, and certifications issued by 38418  
the director of environmental protection pursuant to Chapters 38419  
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 38420  
to the environmental protection agency for each such issuance and 38421  
each application for an issuance as provided by this section. No 38422  
fee shall be charged for any issuance for which no application has 38423  
been submitted to the director. 38424

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued 38425  
~~a permit to operate, variance, or permit to install~~ prior to July 38426  
1, 2003, pursuant to rules adopted under division (F) of section 38427  
3704.03 of the Revised Code shall pay the fees specified in the 38428  
following ~~schedule~~ schedules: 38429

(1) Fuel-Burning Equipment ( <u>boilers</u> )				38430
Input capacity ( <u>maximum</u> )	<del>Permit</del>		Permit	38431
(million British	<del>to</del>		to	38432
thermal units per hour)	<del>operate</del>	<u>Variance</u>	install	38433
<u>Greater than 0 or more, but</u>	<del>\$ 75</del>	<u>\$225</u>	<del>\$ 100</del> <u>200</u>	38434
less than 10				38435
10 or more, but less than 100	<u>210</u>	<u>450</u>	<del>390</del> <u>400</u>	38436
100 or more, but less than 300	<u>270</u>	<u>675</u>	<del>585</del> <u>800</u>	38437

300 or more, but less than 500	<del>330</del>	900	<del>780</del> <u>1500</u>	38438
500 or more, <u>but less than 1000</u>	500	975	<del>1000</del> <u>2500</u>	38439
<u>1000 or more, but less than 5000</u>			<u>4000</u>	38440
<u>5000 or more</u>			<u>6000</u>	38441

Units burning exclusively natural gas, number two fuel oil, 38442  
or both shall be assessed a fee that is one-half of the applicable 38443  
amount established in division (F)(1) of this section. 38444

~~Any fuel burning equipment using only natural gas, propane,~~ 38445  
~~liquefied petroleum gas, or number two or lighter fuel oil shall~~ 38446  
~~be assessed a fee one half of that shown.~~ 38447

(2) Incinerators 38448

	<del>Permit</del>		Permit	38449
Input capacity	<del>to</del>		to	38450
(pounds per hour)	<del>operate</del>	Variance	install	38451
0 to <del>50</del> <u>100</u>	<del>\$ 50</del>	\$225	\$ <del>65</del> <u>100</u>	38452
<del>51</del> <u>101</u> to 500	<del>210</del>	450	<del>390</del> <u>400</u>	38453
501 to 2000	<del>270</del>	675	<del>585</del> <u>750</u>	38454
2001 to <del>30,000</del> <u>20,000</u>	<del>330</del>	900	<del>780</del> <u>1000</u>	38455
more than <del>30,000</del> <u>20,000</u>	500	975	<del>1000</del> <u>2500</u>	38456

~~(3)~~(a) Process 38457

	<del>Permit</del>		Permit	38458
Process weight rate	<del>to</del>		to	38459
(pounds per hour)	<del>operate</del>	Variance	install	38460
0 to 1000	<del>\$100</del>	\$225	\$ 200	38461
1001 to 5000	<del>210</del>	450	<del>390</del> <u>400</u>	38462
5001 to 10,000	<del>270</del>	675	<del>585</del> <u>600</u>	38463
10,001 to 50,000	<del>330</del>	900	<del>780</del> <u>800</u>	38464
more than 50,000	500	975	1000	38465

In any process where process weight rate cannot be 38466  
ascertained, the minimum fee shall be assessed. 38467

(b) Notwithstanding division (B)(3)(a) of this section, any 38468  
person issued a permit to install pursuant to rules adopted under 38469  
division (F) of section 3704.03 of the Revised Code shall pay the 38470  
fees established in division (B)(3)(c) of this section for a 38471  
process used in any of the following industries, as identified by 38472  
the applicable four-digit standard industrial classification code 38473  
according to the Standard Industrial Classification Manual 38474  
published by the United States office of management and budget in 38475  
the executive office of the president, 1972, as revised: 38476

1211 Bituminous coal and lignite mining; 38477

1213 Bituminous coal and lignite mining services; 38478

1411 Dimension stone; 38479

1422 Crushed and broken limestone; 38480

1427 Crushed and broken stone, not elsewhere classified; 38481

1442 Construction sand and gravel; 38482

1446 Industrial sand; 38483

3281 Cut stone and stone products; 38484

3295 Minerals and earth, ground or otherwise treated. 38485

(c) The fees established in the following schedule apply to 38486  
the issuance of a permit to install pursuant to rules adopted 38487  
under division (F) of section 3704.03 of the Revised Code for a 38488  
process listed in division (B)(3)(b) of this section: 38489

<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>	38492
<u>10,001 to 50,000</u>	<u>300</u>	38493
<u>50,001 to 100,000</u>	<u>400</u>	38494

<u>100,001 to 200,000</u>			<u>500</u>	38495
<u>200,001 to 400,000</u>			<u>600</u>	38496
<u>400,001 or more</u>			<u>700</u>	38497
(4) Storage tanks				38498
Gallons ( <u>maximum useful</u> capacity)	Permit		Permit	38499
	<del>to</del>		to	38500
	operate	Variance	install	38501
				38502
<del>Less than 40,000</del> <u>0 to 20,000</u>	<del>\$150</del>	<del>\$225</del>	<del>\$ 195</del> <u>100</u>	38503
<del>20,001 to 40,000 or more, but less</del>				38504
<del>than 100,000</del>	<del>210</del>	<del>450</del>	<del>390</del> <u>150</u>	38505
<del>100,000 or more, but less</del>				38506
<del>than 400,000</del>	<del>270</del>	<del>675</del>	<del>585</del>	38507
<del>400,000 or more, but less</del>				38508
<del>than 40,001 to 100,000</del>			<u>200</u>	38509
<u>100,001 to 250,000</u>			<u>250</u>	38510
<u>250,001 to 500,000</u>			<u>350</u>	38511
<u>500,001 to 1,000,000</u>	<del>330</del>	<del>900</del>	<del>780</del> <u>500</u>	38512
<del>1,000,000</del> <u>1,000,001 or more greater</u>	<del>500</del>	<del>975</del>	<del>1000</del> <u>750</u>	38513
(5) Gasoline				38514
Gasoline/ <u>fuel</u> dispensing	Permit		Permit	38515
facilities	<del>to</del>		to	38516
	operate	Variance	install	38517
For each gasoline/ <u>fuel</u>				38518
dispensing facility	<del>\$20</del>	<del>\$100</del>	<del>\$50</del> <u>100</u>	38519
(6) <del>Dry cleaning</del>				38520
Dry cleaning	Permit		Permit	38521
facilities	<del>to</del>		to	38522
	operate	Variance	install	38523
For each dry cleaning				38524
facility ( <u>includes all units</u>	<del>\$50</del>	<del>\$200</del>	<del>\$100</del>	38525
<u>at the facility</u> )				38526

(7) ~~Coal mining operations regulated under Chapter 1513. of~~ 38527  
~~the Revised Code shall be assessed a fee of two hundred fifty~~ 38528  
~~dollars per mine or location. Registration status~~ 38529  
Permit 38530  
to 38531  
install 38532  
For each source covered by registration status \$75 38533

(C)(1) Except as otherwise provided in division (C)(2) of 38534  
this section, beginning July 1, 1994, each person who owns or 38535  
operates an air contaminant source and who is required to apply 38536  
for and obtain a Title V permit under section 3704.036 of the 38537  
Revised Code shall pay the fees set forth in division (C)(1) of 38538  
this section. For the purposes of that division, total emissions 38539  
of air contaminants may be calculated using engineering 38540  
calculations, emissions factors, material balance calculations, or 38541  
performance testing procedures, as authorized by the director. 38542

The following fees shall be assessed on the total actual 38543  
emissions from a source in tons per year of the regulated 38544  
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 38545  
organic compounds, and lead: 38546

(a) Fifteen dollars per ton on the total actual emissions of 38547  
each such regulated pollutant during the period July through 38548  
December 1993, to be collected no sooner than July 1, 1994; 38549

(b) Twenty dollars per ton on the total actual emissions of 38550  
each such regulated pollutant during calendar year 1994, to be 38551  
collected no sooner than April 15, 1995; 38552

(c) Twenty-five dollars per ton on the total actual emissions 38553  
of each such regulated pollutant in calendar year 1995, and each 38554  
subsequent calendar year, to be collected no sooner than the 38555  
fifteenth day of April of the year next succeeding the calendar 38556  
year in which the emissions occurred. 38557

The fees levied under division (C)(1) of this section do not 38558  
apply to that portion of the emissions of a regulated pollutant at 38559  
a facility that exceed four thousand tons during a calendar year. 38560

(2) The fees assessed under division (C)(1) of this section 38561  
are for the purpose of providing funding for the Title V permit 38562  
program. 38563

(3) The fees assessed under division (C)(1) of this section 38564  
do not apply to emissions from any electric generating unit 38565  
designated as a Phase I unit under Title IV of the federal Clean 38566  
Air Act prior to calendar year 2000. Those fees shall be assessed 38567  
on the emissions from such a generating unit commencing in 38568  
calendar year 2001 based upon the total actual emissions from the 38569  
generating unit during calendar year 2000 and shall continue to be 38570  
assessed each subsequent calendar year based on the total actual 38571  
emissions from the generating unit during the preceding calendar 38572  
year. 38573

(4) The director shall issue invoices to owners or operators 38574  
of air contaminant sources who are required to pay a fee assessed 38575  
under division (C) or (D) of this section. Any such invoice shall 38576  
be issued no sooner than the applicable date when the fee first 38577  
may be collected in a year under the applicable division, shall 38578  
identify the nature and amount of the fee assessed, and shall 38579  
indicate that the fee is required to be paid within thirty days 38580  
after the issuance of the invoice. 38581

(D)(1) Except as provided in division (D)~~(2)~~(3) of this 38582  
section, ~~beginning from~~ January 1, 1994, through December 31, 38583  
2003, each person who owns or operates an air contaminant source; 38584  
who is required to apply for a permit to operate pursuant to rules 38585  
adopted under division (G), or a variance pursuant to division 38586  
(H), of section 3704.03 of the Revised Code; and who is not 38587  
required to apply for and obtain a Title V permit under section 38588

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 38621  
conditions that lower the facility's potential to emit air 38622  
contaminants below the major source thresholds established in 38623  
rules adopted under section 3704.036 of the Revised Code. 38624

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 38625  
each person who owns or operates a synthetic minor facility shall 38626  
pay an annual fee based on the sum of the actual annual emissions 38627  
from the facility of particulate matter, sulfur dioxide, nitrogen 38628  
dioxide, organic compounds, and lead in accordance with the 38629  
following schedule: 38630

Combined total tons 38631		
per year of all regulated 38632	Annual fee	
pollutants emitted 38633	per facility	
Less than 10 38634	\$ 170	
10 or more, but less than 20 38635	340	
20 or more, but less than 30 38636	670	
30 or more, but less than 40 38637	1,010	
40 or more, but less than 50 38638	1,340	
50 or more, but less than 60 38639	1,680	
60 or more, but less than 70 38640	2,010	
70 or more, but less than 80 38641	2,350	
80 or more, but less than 90 38642	2,680	
90 or more, but less than 100 38643	3,020	
100 or more 38644	3,350	

~~(3)~~(4) The fees assessed under division (D)(1) of this 38645  
section shall be collected annually no sooner than the fifteenth 38646  
day of April, commencing in 1995. The fees assessed under division 38647  
(D)(2) of this section shall be collected annually no sooner than 38648  
the fifteenth day of April, commencing in 2005. The fees assessed 38649  
under division (D)~~(2)~~(3) of this section shall be collected no 38650  
sooner than the fifteenth day of April, commencing in 2000. The 38651  
fees assessed under division (D) of this section in a calendar 38652

year shall be based upon the sum of the actual emissions of those 38653  
regulated pollutants during the preceding calendar year. For the 38654  
purpose of division (D) of this section, emissions of air 38655  
contaminants may be calculated using engineering calculations, 38656  
emission factors, material balance calculations, or performance 38657  
testing procedures, as authorized by the director. The director, 38658  
by rule, may require persons who are required to pay the fees 38659  
assessed under division (D) of this section to pay those fees 38660  
biennially rather than annually. 38661

(E)(1) Consistent with the need to cover the reasonable costs 38662  
of the Title V permit program, the director annually shall 38663  
increase the fees prescribed in division (C)(1) of this section by 38664  
the percentage, if any, by which the consumer price index for the 38665  
most recent calendar year ending before the beginning of a year 38666  
exceeds the consumer price index for calendar year 1989. Upon 38667  
calculating an increase in fees authorized by division (E)(1) of 38668  
this section, the director shall compile revised fee schedules for 38669  
the purposes of division (C)(1) of this section and shall make the 38670  
revised schedules available to persons required to pay the fees 38671  
assessed under that division and to the public. 38672

(2) For the purposes of division (E)(1) of this section: 38673

(a) The consumer price index for any year is the average of 38674  
the consumer price index for all urban consumers published by the 38675  
United States department of labor as of the close of the 38676  
twelve-month period ending on the thirty-first day of August of 38677  
that year. 38678

(b) If the 1989 consumer price index is revised, the director 38679  
shall use the revision of the consumer price index that is most 38680  
consistent with that for calendar year 1989. 38681

(F) Each person who is issued a permit to install pursuant to 38682  
rules adopted under division (F) of section 3704.03 of the Revised 38683

Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees 38684  
specified in the following schedules: 38685

(1) Fuel-burning equipment (boilers, furnaces, or process 38686  
heaters used in the process of burning fuel for the primary 38687  
purpose of producing heat or power by indirect heat transfer) 38688

Input capacity (maximum)		38689
(million British thermal units per hour)	Permit to install	38690
Greater than 0, but less than 10	\$ 200	38691
10 or more, but less than 100	400	38692
100 or more, but less than 300	<del>800</del> <u>1000</u>	38693
300 or more, but less than 500	<del>1500</del> <u>2250</u>	38694
500 or more, but less than 1000	<del>2500</del> <u>3750</u>	38695
1000 or more, but less than 5000	<del>4000</del> <u>6000</u>	38696
5000 or more	<del>6000</del> <u>9000</u>	38697

Units burning exclusively natural gas, number two fuel oil, 38698  
or both shall be assessed a fee that is one-half the applicable 38699  
amount shown in division (F)(1) of this section. 38700

(2) Combustion turbines and stationary internal combustion 38701  
engines designed to generate electricity 38702

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	38703
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	38704
<u>10 or more, but less than 25</u>	<u>150</u>	38705
<u>25 or more, but less than 50</u>	<u>300</u>	38706
<u>50 or more, but less than 100</u>	<u>500</u>	38707
<u>100 or more, but less than 250</u>	<u>1000</u>	38708
<u>250 or more</u>	<u>2000</u>	38709

(3) Incinerators 38710

Input capacity (pounds per hour)	Permit to install	38711
0 to 100	\$ 100	38712
101 to 500	<del>400</del> <u>500</u>	38713
501 to 2000	<del>750</del> <u>1000</u>	38714
2001 to 20,000	<del>1000</del> <u>1500</u>	38715

more than 20,000	<del>2500</del> <u>3750</u>	38716
<del>(3)</del> (4)(a) Process		38717
Process weight rate (pounds per hour)	Permit to install	38718
0 to 1000	\$ 200	38719
1001 to 5000	<del>400</del> <u>500</u>	38720
5001 to 10,000	<del>600</del> <u>750</u>	38721
10,001 to 50,000	<del>800</del> <u>1000</u>	38722
more than 50,000	<del>1000</del> <u>1250</u>	38723

In any process where process weight rate cannot be 38724  
ascertained, the minimum fee shall be assessed. A boiler, furnace, 38725  
combustion turbine, stationary internal combustion engine, or 38726  
process heater designed to provide direct heat or power to a 38727  
process not designed to generate electricity shall be assessed a 38728  
fee established in division (F)(4)(a) of this section. A 38729  
combustion turbine or stationary internal combustion engine 38730  
designed to generate electricity shall be assessed a fee 38731  
established in division (F)(2) of this section. 38732

(b) Notwithstanding division (F)(3)(a) of this section, any 38733  
person issued a permit to install pursuant to rules adopted under 38734  
division (F) of section 3704.03 of the Revised Code shall pay the 38735  
fees set forth in division (F)(3)(c) of this section for a process 38736  
used in any of the following industries, as identified by the 38737  
applicable four-digit standard industrial classification code 38738  
according to the Standard Industrial Classification Manual 38739  
published by the United States office of management and budget in 38740  
the executive office of the president, 1972, as revised: 38741

1211 Bituminous coal and lignite mining; 38742

1213 Bituminous coal and lignite mining services; 38743

1411 Dimension stone; 38744

1422 Crushed and broken limestone; 38745

1427 Crushed and broken stone, not elsewhere classified;		38746
1442 Construction sand and gravel;		38747
1446 Industrial sand;		38748
3281 Cut stone and stone products;		38749
3295 Minerals and earth, ground or otherwise treated.		38750
(c) The fees set forth in the following schedule apply to the		38751
issuance of a permit to install pursuant to rules adopted under		38752
division (F) of section 3704.03 of the Revised Code for a process		38753
identified in division (F)(3)(b) of this section:		38754
<del>Gallons (maximum</del>		38755
<del>useful capacity</del> <u>Process weight rate</u>	Permit to install	38756
<u>(pounds per hour)</u>		
0 to <del>20,000</del> <u>10,000</u>	\$ <del>100</del> <u>200</u>	38757
<del>20,001</del> <u>10,001</u> to <del>40,000</del> <u>50,000</u>	<del>150</del> <u>400</u>	38758
<del>40,001</del> <u>50,001</u> to 100,000	<del>200</del> <u>500</u>	38759
100,001 to <del>250,000</del> <u>200,000</u>	<del>250</del> <u>600</u>	38760
<del>250,001</del> <u>200,001</u> to <del>500,000</del> <u>400,000</u>	<del>350</del> <u>750</u>	38761
<del>500,001</del> to <del>1,000,000</del>	<del>500</del>	38762
<del>1,000,001</del> <u>400,001</u> or <del>greater</del> <u>more</u>	<del>750</del> <u>900</u>	38763
<del>(4)</del> (5) Storage tanks		38764
Gallons (maximum useful capacity)	Permit to install	38765
0 to 20,000	\$ 100	38766
20,001 to 40,000	150	38767
40,001 to 100,000	<del>200</del> <u>250</u>	38768
100,001 to <del>250,000</del>	<del>250</del>	38769
<del>250,001</del> to 500,000	<del>350</del> <u>400</u>	38770
500,001 to <del>1,000,000</del>	<del>500</del>	38771
<del>1,000,001</del> or greater	750	38772
<del>(5)</del> (6) Gasoline/fuel dispensing facilities		38773
For each gasoline/fuel	Permit to install	38774

dispensing facility ( <u>includes all</u>	\$ 100	38775
<u>units at the facility</u> )		
<del>(6)</del> (7) Dry cleaning facilities		38776
For each dry cleaning		38777
facility (includes all units	Permit to install	38778
at the facility)	\$ 100	38779
<del>(7)</del> (8) Registration status		38780
For each source covered	Permit to install	38781
by registration status	\$ 75	38782
(G) An owner or operator who is responsible for an asbestos		38783
demolition or renovation project pursuant to rules adopted under		38784
section 3704.03 of the Revised Code shall pay the fees set forth		38785
in the following schedule:		38786
Action	Fee	38787
Each notification	\$75	38788
Asbestos removal	\$3/unit	38789
Asbestos cleanup	\$4/cubic yard	38790
For purposes of this division, "unit" means any combination of		38791
linear feet or square feet equal to fifty.		38792
(H) A person who is issued an extension of time for a permit		38793
to install an air contaminant source pursuant to rules adopted		38794
under division (F) of section 3704.03 of the Revised Code shall		38795
pay a fee equal to one-half the fee originally assessed for the		38796
permit to install under this section, except that the fee for such		38797
an extension shall not exceed two hundred dollars.		38798
(I) A person who is issued a modification to a permit to		38799
install an air contaminant source pursuant to rules adopted under		38800
section 3704.03 of the Revised Code shall pay a fee equal to		38801
one-half of the fee that would be assessed under this section to		38802
obtain a permit to install the source. The fee assessed by this		38803
division only applies to modifications that are initiated by the		38804

owner or operator of the source and shall not exceed two thousand 38805  
dollars. 38806

(J) Notwithstanding division (B) or (F) of this section, a 38807  
person who applies for or obtains a permit to install pursuant to 38808  
rules adopted under division (F) of section 3704.03 of the Revised 38809  
Code after the date actual construction of the source began shall 38810  
pay a fee for the permit to install that is equal to twice the fee 38811  
that otherwise would be assessed under the applicable division 38812  
unless the applicant received authorization to begin construction 38813  
under division (W) of section 3704.03 of the Revised Code. This 38814  
division only applies to sources for which actual construction of 38815  
the source begins on or after July 1, 1993. The imposition or 38816  
payment of the fee established in this division does not preclude 38817  
the director from taking any administrative or judicial 38818  
enforcement action under this chapter, Chapter 3704., 3714., 38819  
3734., or 6111. of the Revised Code, or a rule adopted under any 38820  
of them, in connection with a violation of rules adopted under 38821  
division (F) of section 3704.03 of the Revised Code. 38822

As used in this division, "actual construction of the source" 38823  
means the initiation of physical on-site construction activities 38824  
in connection with improvements to the source that are permanent 38825  
in nature, including, without limitation, the installation of 38826  
building supports and foundations and the laying of underground 38827  
pipework. 38828

(K) Fifty cents per ton of each fee assessed under division 38829  
(C) of this section on actual emissions from a source and received 38830  
by the environmental protection agency pursuant to that division 38831  
shall be deposited into the state treasury to the credit of the 38832  
small business assistance fund created in section 3706.19 of the 38833  
Revised Code. The remainder of the moneys received by the division 38834  
pursuant to that division and moneys received by the agency 38835  
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 38836

section shall be deposited in the state treasury to the credit of 38837  
the clean air fund created in section 3704.035 of the Revised 38838  
Code. 38839

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 38840  
or (c) of this section, a person issued a water discharge permit 38841  
or renewal of a water discharge permit pursuant to Chapter 6111. 38842  
of the Revised Code shall pay a fee based on each point source to 38843  
which the issuance is applicable in accordance with the following 38844  
schedule: 38845

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	38847
1,001 to 5000	100	38848
5,001 to 50,000	200	38849
50,001 to 100,000	300	38850
100,001 to 300,000	525	38851
over 300,000	750	38852

(b) Notwithstanding the fee schedule specified in division 38853  
(L)(1)(a) of this section, the fee for a water discharge permit 38854  
that is applicable to coal mining operations regulated under 38855  
Chapter 1513. of the Revised Code shall be two hundred fifty 38856  
dollars per mine. 38857

(c) Notwithstanding the fee schedule specified in division 38858  
(L)(1)(a) of this section, the fee for a water discharge permit 38859  
for a public discharger identified by I in the third character of 38860  
the permittee's NPDES permit number shall not exceed seven hundred 38861  
fifty dollars. 38862

(2) A person applying for a plan approval for a wastewater 38863  
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 38864  
of the Revised Code shall pay a fee of one hundred dollars plus 38865  
sixty-five one-hundredths of one per cent of the estimated project 38866  
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 38867  
two-tenths of one per cent of the estimated project cost on and 38868

after July 1, ~~2004~~ 2006, except that the total fee shall not 38869  
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 38870  
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 38871  
shall be paid at the time the application is submitted. 38872

(3) A person issued a modification of a water discharge 38873  
permit shall pay a fee equal to one-half the fee that otherwise 38874  
would be charged for a water discharge permit, except that the fee 38875  
for the modification shall not exceed four hundred dollars. 38876

(4) A person who has entered into an agreement with the 38877  
director under section 6111.14 of the Revised Code shall pay an 38878  
administrative service fee for each plan submitted under that 38879  
section for approval that shall not exceed the minimum amount 38880  
necessary to pay administrative costs directly attributable to 38881  
processing plan approvals. The director annually shall calculate 38882  
the fee and shall notify all persons who have entered into 38883  
agreements under that section, or who have applied for agreements, 38884  
of the amount of the fee. 38885

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 38886  
30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued 38887  
pursuant to Chapter 6111. of the Revised Code with an average 38888  
daily discharge flow of five thousand gallons or more shall pay a 38889  
nonrefundable annual discharge fee. Any person who fails to pay 38890  
the fee at that time shall pay an additional amount that equals 38891  
ten per cent of the required annual discharge fee. 38892

(ii) The billing year for the annual discharge fee 38893  
established in division (L)(5)(a)(i) of this section shall consist 38894  
of a twelve-month period beginning on the first day of January of 38895  
the year preceding the date when the annual discharge fee is due. 38896  
In the case of an existing source that permanently ceases to 38897  
discharge during a billing year, the director shall reduce the 38898  
annual discharge fee, including the surcharge applicable to 38899  
certain industrial facilities pursuant to division (L)(5)(c) of 38900

this section, by one-twelfth for each full month during the 38901  
billing year that the source was not discharging, but only if the 38902  
person holding the NPDES discharge permit for the source notifies 38903  
the director in writing, not later than the first day of October 38904  
of the billing year, of the circumstances causing the cessation of 38905  
discharge. 38906

(iii) The annual discharge fee established in division 38907  
(L)(5)(a)(i) of this section, except for the surcharge applicable 38908  
to certain industrial facilities pursuant to division (L)(5)(c) of 38909  
this section, shall be based upon the average daily discharge flow 38910  
in gallons per day calculated using first day of May through 38911  
thirty-first day of October flow data for the period two years 38912  
prior to the date on which the fee is due. In the case of NPDES 38913  
discharge permits for new sources, the fee shall be calculated 38914  
using the average daily design flow of the facility until actual 38915  
average daily discharge flow values are available for the time 38916  
period specified in division (L)(5)(a)(iii) of this section. The 38917  
annual discharge fee may be prorated for a new source as described 38918  
in division (L)(5)(a)(ii) of this section. 38919

(b) An NPDES permit holder that is a public discharger shall 38920  
pay the fee specified in the following schedule: 38921

Average daily	Fee due by	
discharge flow	January 30,	
	<del>2002</del> <u>2004</u> , and	
	January 30, <del>2003</del>	
	<u>2005</u>	
5,000 to 49,999	\$ 200	38926
50,000 to 100,000	500	38927
100,001 to 250,000	1,050	38928
250,001 to 1,000,000	2,600	38929
1,000,001 to 5,000,000	5,200	38930
5,000,001 to 10,000,000	10,350	38931

10,000,001 to 20,000,000	15,550	38932
20,000,001 to 50,000,000	25,900	38933
50,000,001 to 100,000,000	41,400	38934
100,000,001 or more	62,100	38935

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, <del>2002</del> <u>2004</u> , and January 30, <del>2003</del> <u>2005</u>	
5,000 to 49,999	\$ 250	38952
50,000 to 250,000	1,200	38953
250,001 to 1,000,000	2,950	38954
1,000,001 to 5,000,000	5,850	38955
5,000,001 to 10,000,000	8,800	38956
10,000,001 to 20,000,000	11,700	38957
20,000,001 to 100,000,000	14,050	38958
100,000,001 to 250,000,000	16,400	38959
250,000,001 or more	18,700	38960

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 38963  
billing year specified in division (L)(5)(a)(ii) of this section 38964  
shall pay a nonrefundable annual surcharge of seven thousand five 38965  
hundred dollars not later than January 30, ~~2002~~ 2004, and not 38966  
later than January 30, ~~2003~~ 2005. Any person who fails to pay the 38967  
surcharge at that time shall pay an additional amount that equals 38968  
ten per cent of the amount of the surcharge. 38969

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 38970  
section, a public discharger identified by I in the third 38971  
character of the permittee's NPDES permit number and an industrial 38972  
discharger identified by I, J, L, V, W, X, Y, or Z in the third 38973  
character of the permittee's NPDES permit number shall pay a 38974  
nonrefundable annual discharge fee of one hundred eighty dollars 38975  
not later than January 30, ~~2002~~ 2004, and not later than January 38976  
30, ~~2003~~ 2005. Any person who fails to pay the fee at that time 38977  
shall pay an additional amount that equals ten per cent of the 38978  
required fee. 38979

(6) Each person obtaining a national pollutant discharge 38980  
elimination system general or individual permit for municipal 38981  
storm water discharge shall pay a nonrefundable storm water 38982  
discharge fee of one hundred dollars per square mile of area 38983  
permitted. The fee shall not exceed ten thousand dollars and shall 38984  
be payable on or before January 30, 2004, and the thirtieth day of 38985  
January of each year thereafter. Any person who fails to pay the 38986  
fee on the date specified in division (L)(6) of this section shall 38987  
pay an additional amount per year equal to ten per cent of the 38988  
annual fee that is unpaid. 38989

(7) The director shall transmit all moneys collected under 38990  
division (L) of this section to the treasurer of state for deposit 38991  
into the state treasury to the credit of the surface water 38992  
protection fund created in section 6111.038 of the Revised Code. 38993

(8) As used in division (L) of this section: 38994

(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	\$ <del>56</del> <u>112</u>	39029
50 to 99	<del>88</del> <u>176</u>	39030
Number of service connections	Average cost per connection	39031
100 to 2,499	\$ <del>.96</del> <u>1.92</u>	39032
2,500 to 4,999	<del>.92</del> <u>1.48</u>	39033
5,000 to 7,499	<del>.88</del> <u>1.42</u>	39034
7,500 to 9,999	<del>.84</del> <u>1.34</u>	39035
10,000 to 14,999	<del>.80</del> <u>1.16</u>	39036
15,000 to 24,999	<del>.76</del> <u>1.10</u>	39037
25,000 to 49,999	<del>.72</del> <u>1.04</u>	39038
50,000 to 99,999	<del>.68</del> <u>.92</u>	39039
100,000 to 149,999	<del>.64</del> <u>.86</u>	39040
150,000 to 199,999	<del>.60</del> <u>.80</u>	39041
200,000 or more	<del>.56</del> <u>.76</u>	39042

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Population served	Fee amount	
Fewer than 150	\$ <del>56</del> <u>112</u>	39057

150 to 299	<del>88</del> <u>176</u>	39058
300 to 749	<del>192</del> <u>384</u>	39059
750 to 1,499	<del>392</del> <u>628</u>	39060
1,500 to 2,999	<del>792</del> <u>1,268</u>	39061
3,000 to 7,499	<del>1,760</del> <u>2,816</u>	39062
7,500 to 14,999	<del>3,800</del> <u>5,510</u>	39063
15,000 to 22,499	<del>6,240</del> <u>9,048</u>	39064
22,500 to 29,999	<del>8,576</del> <u>12,430</u>	39065
30,000 or more	<del>11,600</del> <u>16,820</u>	39066

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	\$ <del>56</del> <u>112</u>	39079
2	<del>56</del> <u>112</u>	39080
3	<del>88</del> <u>176</u>	39081
4	<del>192</del> <u>278</u>	39082
5	<del>392</del> <u>568</u>	39083

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. 39088

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater. 39089  
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39091  
39092

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed ~~fifteen~~ twenty thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be paid at the time the application is submitted. 39093  
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(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee. 39101  
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(3) Through June 30, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water: 39110  
39111  
39112  
39113  
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microbiological	<del>\$1,650</del>	39116
<u>MMO-MUG</u>	<u>\$2,000</u>	39117
<u>MF</u>	<u>2,100</u>	39118
<u>MMO-MUG and MF</u>	<u>2,550</u>	39119

organic chemical	<del>3,500</del> <u>5,400</u>	39120
<del>inorganic chemical</del> <u>trace</u>	<del>3,500</del> <u>5,400</u>	39121
<u>metals</u>		
standard chemistry	<del>1,800</del> <u>2,800</u>	39122
limited chemistry	<del>1,000</del> <u>1,550</u>	39123

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	<del>\$250</del> <u>1,650</u>	39126
<u>organic chemicals</u>	<u>3,500</u>	39127
<del>chemical/radiological</del> <u>trace</u>	<del>250</del> <u>3,500</u>	39128
<u>metals</u>		
<u>standard chemistry</u>	<u>1,800</u>	39129
<del>nitrate/turbidity (only)</del>	<del>150</del> <u>1,000</u>	39130
<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	39157
Class II operator	55	39158
Class III operator	65	39159
Class IV operator	75	39160

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>	39171
<u>Class I operator</u>	<u>60</u>	39172
<u>Class II operator</u>	<u>75</u>	39173
<u>Class III operator</u>	<u>85</u>	39174
<u>Class IV operator</u>	<u>100</u>	39175

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>	39178
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Class I operator	\$ <del>25</del> <u>45</u>	39179
Class II operator	<del>35</del> <u>55</u>	39180
Class III operator	<del>45</del> <u>65</u>	39181
Class IV operator	<del>55</del> <u>75</u>	39182

A person shall pay a biennial certification renewal fee for 39183  
each applicable class of certification in accordance with the 39184  
following schedule: 39185

<u>Class A operator</u>	<u>\$25</u>	39186
<u>Class I operator</u>	<u>35</u>	39187
<u>Class II operator</u>	<u>45</u>	39188
<u>Class III operator</u>	<u>55</u>	39189
<u>Class IV operator</u>	<u>65</u>	39190

If a certification renewal fee is received by the director 39191  
more than thirty days, but not more than one year after the 39192  
expiration date of the certification, the person shall pay a 39193  
certification renewal fee in accordance with the following 39194  
schedule: 39195

<u>Class A operator</u>	<u>\$45</u>	39196
<u>Class I operator</u>	<u>55</u>	39197
<u>Class II operator</u>	<u>65</u>	39198
<u>Class III operator</u>	<u>75</u>	39199
<u>Class IV operator</u>	<u>85</u>	39200

A person who requests a replacement certificate shall pay a 39201  
fee of twenty-five dollars at the time the request is made. 39202

The director shall transmit all moneys collected under this 39203  
division to the treasurer of state for deposit into the drinking 39204  
water protection fund created in section 6109.30 of the Revised 39205  
Code. 39206

(P) ~~Through June 30, 2004, any~~ Any person submitting an 39207  
application for an industrial water pollution control certificate 39208  
under section 6111.31 of the Revised Code, as that section existed 39209

before its repeal by H.B. 95 of the 125th general assembly, shall 39210  
pay a nonrefundable fee of five hundred dollars at the time the 39211  
application is submitted. The director shall transmit all moneys 39212  
collected under this division to the treasurer of state for 39213  
deposit into the surface water protection fund created in section 39214  
6111.038 of the Revised Code. A person paying a certificate fee 39215  
under this division shall not pay an application fee under 39216  
division (S)(1) of this section. On and after the effective date 39217  
of this amendment, persons shall file such applications and pay 39218  
the fee as required under sections 5709.20 to 5709.27 of the 39219  
Revised Code, and proceeds from the fee shall be credited as 39220  
provided in section 5709.212 of the Revised Code. 39221

(Q) Except as otherwise provided in division (R) of this 39222  
section, a person issued a permit by the director for a new solid 39223  
waste disposal facility other than an incineration or composting 39224  
facility, a new infectious waste treatment facility other than an 39225  
incineration facility, or a modification of such an existing 39226  
facility that includes an increase in the total disposal or 39227  
treatment capacity of the facility pursuant to Chapter 3734. of 39228  
the Revised Code shall pay a fee of ten dollars per thousand cubic 39229  
yards of disposal or treatment capacity, or one thousand dollars, 39230  
whichever is greater, except that the total fee for any such 39231  
permit shall not exceed eighty thousand dollars. A person issued a 39232  
modification of a permit for a solid waste disposal facility or an 39233  
infectious waste treatment facility that does not involve an 39234  
increase in the total disposal or treatment capacity of the 39235  
facility shall pay a fee of one thousand dollars. A person issued 39236  
a permit to install a new, or modify an existing, solid waste 39237  
transfer facility under that chapter shall pay a fee of two 39238  
thousand five hundred dollars. A person issued a permit to install 39239  
a new or to modify an existing solid waste incineration or 39240  
composting facility, or an existing infectious waste treatment 39241  
facility using incineration as its principal method of treatment, 39242

under that chapter shall pay a fee of one thousand dollars. The 39243  
increases in the permit fees under this division resulting from 39244  
the amendments made by Amended Substitute House Bill 592 of the 39245  
117th general assembly do not apply to any person who submitted an 39246  
application for a permit to install a new, or modify an existing, 39247  
solid waste disposal facility under that chapter prior to 39248  
September 1, 1987; any such person shall pay the permit fee 39249  
established in this division as it existed prior to June 24, 1988. 39250  
In addition to the applicable permit fee under this division, a 39251  
person issued a permit to install or modify a solid waste facility 39252  
or an infectious waste treatment facility under that chapter who 39253  
fails to pay the permit fee to the director in compliance with 39254  
division (V) of this section shall pay an additional ten per cent 39255  
of the amount of the fee for each week that the permit fee is 39256  
late. 39257

Permit and late payment fees paid to the director under this 39258  
division shall be credited to the general revenue fund. 39259

(R)(1) A person issued a registration certificate for a scrap 39260  
tire collection facility under section 3734.75 of the Revised Code 39261  
shall pay a fee of two hundred dollars, except that if the 39262  
facility is owned or operated by a motor vehicle salvage dealer 39263  
licensed under Chapter 4738. of the Revised Code, the person shall 39264  
pay a fee of twenty-five dollars. 39265

(2) A person issued a registration certificate for a new 39266  
scrap tire storage facility under section 3734.76 of the Revised 39267  
Code shall pay a fee of three hundred dollars, except that if the 39268  
facility is owned or operated by a motor vehicle salvage dealer 39269  
licensed under Chapter 4738. of the Revised Code, the person shall 39270  
pay a fee of twenty-five dollars. 39271

(3) A person issued a permit for a scrap tire storage 39272  
facility under section 3734.76 of the Revised Code shall pay a fee 39273  
of one thousand dollars, except that if the facility is owned or 39274

operated by a motor vehicle salvage dealer licensed under Chapter 39275  
4738. of the Revised Code, the person shall pay a fee of fifty 39276  
dollars. 39277

(4) A person issued a permit for a scrap tire monocell or 39278  
monofill facility under section 3734.77 of the Revised Code shall 39279  
pay a fee of ten dollars per thousand cubic yards of disposal 39280  
capacity or one thousand dollars, whichever is greater, except 39281  
that the total fee for any such permit shall not exceed eighty 39282  
thousand dollars. 39283

(5) A person issued a registration certificate for a scrap 39284  
tire recovery facility under section 3734.78 of the Revised Code 39285  
shall pay a fee of one hundred dollars. 39286

(6) A person issued a permit for a scrap tire recovery 39287  
facility under section 3734.78 of the Revised Code shall pay a fee 39288  
of one thousand dollars. 39289

(7) In addition to the applicable registration certificate or 39290  
permit fee under divisions (R)(1) to (6) of this section, a person 39291  
issued a registration certificate or permit for any such scrap 39292  
tire facility who fails to pay the registration certificate or 39293  
permit fee to the director in compliance with division (V) of this 39294  
section shall pay an additional ten per cent of the amount of the 39295  
fee for each week that the fee is late. 39296

(8) The registration certificate, permit, and late payment 39297  
fees paid to the director under divisions (R)(1) to (7) of this 39298  
section shall be credited to the scrap tire management fund 39299  
created in section 3734.82 of the Revised Code. 39300

(S)(1) Except as provided by divisions (L), (M), (N), (O), 39301  
(P), and (S)(2) of this section, division (A)(2) of section 39302  
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 39303  
and rules adopted under division (T)(1) of this section, any 39304  
person applying for a registration certificate under section 39305

3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 39306  
variance, or plan approval under Chapter 3734. of the Revised Code 39307  
shall pay a nonrefundable fee of fifteen dollars at the time the 39308  
application is submitted. 39309

Except as otherwise provided, any person applying for a 39310  
permit, variance, or plan approval under Chapter 6109. or 6111. of 39311  
the Revised Code shall pay a nonrefundable fee of one hundred 39312  
dollars at the time the application is submitted through June 30, 39313  
~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time 39314  
the application is submitted on and after July 1, ~~2004~~ 2006. 39315  
Through June 30, ~~2004~~ 2006, any person applying for a national 39316  
pollutant discharge elimination system permit under Chapter 6111. 39317  
of the Revised Code shall pay a nonrefundable fee of two hundred 39318  
dollars at the time of application for the permit. On and after 39319  
July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of 39320  
fifteen dollars at the time of application. 39321

In addition to the application fee established under division 39322  
(S)(1) of this section, any person applying for a national 39323  
pollutant discharge elimination system general storm water 39324  
construction permit shall pay a nonrefundable fee of twenty 39325  
dollars per acre for each acre that is permitted above five acres 39326  
at the time the application is submitted. However, the per acreage 39327  
fee shall not exceed three hundred dollars. In addition, any 39328  
person applying for a national pollutant discharge elimination 39329  
system general storm water industrial permit shall pay a 39330  
nonrefundable fee of one hundred fifty dollars at the time the 39331  
application is submitted. 39332

The director shall transmit all moneys collected under 39333  
division (S)(1) of this section pursuant to Chapter 6109. of the 39334  
Revised Code to the treasurer of state for deposit into the 39335  
drinking water protection fund created in section 6109.30 of the 39336  
Revised Code. 39337

The director shall transmit all moneys collected under 39338  
division (S)(1) of this section pursuant to Chapter 6111. of the 39339  
Revised Code to the treasurer of state for deposit into the 39340  
surface water protection fund created in section 6111.038 of the 39341  
Revised Code. 39342

If a registration certificate is issued under section 39343  
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 39344  
the application fee paid shall be deducted from the amount of the 39345  
registration certificate fee due under division (R)(1), (2), or 39346  
(5) of this section, as applicable. 39347

If a person submits an electronic application for a 39348  
registration certificate, permit, variance, or plan approval for 39349  
which an application fee is established under division (S)(1) of 39350  
this section, the person shall pay the applicable application fee 39351  
as expeditiously as possible after the submission of the 39352  
electronic application. An application for a registration 39353  
certificate, permit, variance, or plan approval for which an 39354  
application fee is established under division (S)(1) of this 39355  
section shall not be reviewed or processed until the applicable 39356  
application fee, and any other fees established under this 39357  
division, are paid. 39358

(2) Division (S)(1) of this section does not apply to an 39359  
application for a registration certificate for a scrap tire 39360  
collection or storage facility submitted under section 3734.75 or 39361  
3734.76 of the Revised Code, as applicable, if the owner or 39362  
operator of the facility or proposed facility is a motor vehicle 39363  
salvage dealer licensed under Chapter 4738. of the Revised Code. 39364

(T) The director may adopt, amend, and rescind rules in 39365  
accordance with Chapter 119. of the Revised Code that do all of 39366  
the following: 39367

(1) Prescribe fees to be paid by applicants for and holders 39368

of any license, permit, variance, plan approval, or certification 39369  
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 39370  
the Revised Code that are not specifically established in this 39371  
section. The fees shall be designed to defray the cost of 39372  
processing, issuing, revoking, modifying, denying, and enforcing 39373  
the licenses, permits, variances, plan approvals, and 39374  
certifications. 39375

The director shall transmit all moneys collected under rules 39376  
adopted under division (T)(1) of this section pursuant to Chapter 39377  
6109. of the Revised Code to the treasurer of state for deposit 39378  
into the drinking water protection fund created in section 6109.30 39379  
of the Revised Code. 39380

The director shall transmit all moneys collected under rules 39381  
adopted under division (T)(1) of this section pursuant to Chapter 39382  
6111. of the Revised Code to the treasurer of state for deposit 39383  
into the surface water protection fund created in section 6111.038 39384  
of the Revised Code. 39385

(2) Exempt the state and political subdivisions thereof, 39386  
including education facilities or medical facilities owned by the 39387  
state or a political subdivision, or any person exempted from 39388  
taxation by section 5709.07 or 5709.12 of the Revised Code, from 39389  
any fee required by this section; 39390

(3) Provide for the waiver of any fee, or any part thereof, 39391  
otherwise required by this section whenever the director 39392  
determines that the imposition of the fee would constitute an 39393  
unreasonable cost of doing business for any applicant, class of 39394  
applicants, or other person subject to the fee; 39395

(4) Prescribe measures that the director considers necessary 39396  
to carry out this section. 39397

(U) When the director reasonably demonstrates that the direct 39398  
cost to the state associated with the issuance of a permit to 39399

install, license, variance, plan approval, or certification 39400  
exceeds the fee for the issuance or review specified by this 39401  
section, the director may condition the issuance or review on the 39402  
payment by the person receiving the issuance or review of, in 39403  
addition to the fee specified by this section, the amount, or any 39404  
portion thereof, in excess of the fee specified under this 39405  
section. The director shall not so condition issuances for which 39406  
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 39407  
section. 39408

(V) Except as provided in divisions (L), (M), and (P) of this 39409  
section or unless otherwise prescribed by a rule of the director 39410  
adopted pursuant to Chapter 119. of the Revised Code, all fees 39411  
required by this section are payable within thirty days after the 39412  
issuance of an invoice for the fee by the director or the 39413  
effective date of the issuance of the license, permit, variance, 39414  
plan approval, or certification. If payment is late, the person 39415  
responsible for payment of the fee shall pay an additional ten per 39416  
cent of the amount due for each month that it is late. 39417

(W) As used in this section, "fuel-burning equipment," 39418  
"fuel-burning equipment input capacity," "incinerator," 39419  
"incinerator input capacity," "process," "process weight rate," 39420  
"storage tank," "gasoline dispensing facility," "dry cleaning 39421  
facility," "design flow discharge," and "new source treatment 39422  
works" have the meanings ascribed to those terms by applicable 39423  
rules or standards adopted by the director under Chapter 3704. or 39424  
6111. of the Revised Code. 39425

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 39426  
and (J) of this section, and in any other provision of this 39427  
section pertaining to fees paid pursuant to Chapter 3704. of the 39428  
Revised Code: 39429

(1) "Facility," "federal Clean Air Act," "person," and "Title 39430  
V permit" have the same meanings as in section 3704.01 of the 39431

Revised Code.	39432
(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:	39433 39434 39435
(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;	39436 39437 39438
(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;	39439 39440 39441 39442
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	39443 39444 39445
(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;	39446 39447 39448
(e) Emission and ambient monitoring;	39449
(f) Modeling, analyses, or demonstrations;	39450
(g) Preparing inventories and tracking emissions;	39451
(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.	39452 39453 39454 39455 39456 39457 39458
(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	39459 39460 39461

cents per dry ton of sewage sludge, including the dry tons of 39462  
sewage sludge in materials derived from sewage sludge, that the 39463  
sewage sludge facility treats or disposes of in this state. The 39464  
annual volume of sewage sludge treated or disposed of by a sewage 39465  
sludge facility shall be calculated using the first day of January 39466  
through the thirty-first day of December of the calendar year 39467  
preceding the date on which payment of the fee is due. 39468

(2)(a) Except as provided in division (Y)(2)(d) of this 39469  
section, each sewage sludge facility shall pay a minimum annual 39470  
sewage sludge fee of one hundred dollars. 39471

(b) The annual sludge fee required to be paid by a sewage 39472  
sludge facility that treats or disposes of exceptional quality 39473  
sludge in this state shall be thirty-five per cent less per dry 39474  
ton of exceptional quality sludge than the fee assessed under 39475  
division (Y)(1) of this section, subject to the following 39476  
exceptions: 39477

(i) Except as provided in division (Y)(2)(d) of this section, 39478  
a sewage sludge facility that treats or disposes of exceptional 39479  
quality sludge shall pay a minimum annual sewage sludge fee of one 39480  
hundred dollars. 39481

(ii) A sewage sludge facility that treats or disposes of 39482  
exceptional quality sludge shall not be required to pay the annual 39483  
sludge fee for treatment or disposal in this state of exceptional 39484  
quality sludge generated outside of this state and contained in 39485  
bags or other containers not greater than one hundred pounds in 39486  
capacity. 39487

A thirty-five per cent reduction for exceptional quality 39488  
sludge applies to the maximum annual fees established under 39489  
division (Y)(3) of this section. 39490

(c) A sewage sludge facility that transfers sewage sludge to 39491  
another sewage sludge facility in this state for further treatment 39492

prior to disposal in this state shall not be required to pay the 39493  
annual sludge fee for the tons of sewage sludge that have been 39494  
transferred. In such a case, the sewage sludge facility that 39495  
disposes of the sewage sludge shall pay the annual sludge fee. 39496  
However, the facility transferring the sewage sludge shall pay the 39497  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 39498  
of this section. 39499

In the case of a sewage sludge facility that treats sewage 39500  
sludge in this state and transfers it out of this state to another 39501  
entity for disposal, the sewage sludge facility in this state 39502  
shall be required to pay the annual sludge fee for the tons of 39503  
sewage sludge that have been transferred. 39504

(d) A sewage sludge facility that generates sewage sludge 39505  
resulting from an average daily discharge flow of less than five 39506  
thousand gallons per day is not subject to the fees assessed under 39507  
division (Y) of this section. 39508

(3) No sewage sludge facility required to pay the annual 39509  
sludge fee shall be required to pay more than the maximum annual 39510  
fee for each disposal method that the sewage sludge facility uses. 39511  
The maximum annual fee does not include the additional amount that 39512  
may be charged under division (Y)(5) of this section for late 39513  
payment of the annual sludge fee. The maximum annual fee for the 39514  
following methods of disposal of sewage sludge is as follows: 39515

(a) Incineration: five thousand dollars; 39516

(b) Preexisting land reclamation project or disposal in a 39517  
landfill: five thousand dollars; 39518

(c) Land application, land reclamation, surface disposal, or 39519  
any other disposal method not specified in division (Y)(3)(a) or 39520  
(b) of this section: twenty thousand dollars. 39521

(4)(a) In the case of an entity that generates sewage sludge 39522  
or a sewage sludge facility that treats sewage sludge and 39523

transfers the sewage sludge to an incineration facility for 39524  
disposal, the incineration facility, and not the entity generating 39525  
the sewage sludge or the sewage sludge facility treating the 39526  
sewage sludge, shall pay the annual sludge fee for the tons of 39527  
sewage sludge that are transferred. However, the entity or 39528  
facility generating or treating the sewage sludge shall pay the 39529  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 39530  
of this section. 39531

(b) In the case of an entity that generates sewage sludge and 39532  
transfers the sewage sludge to a landfill for disposal or to a 39533  
sewage sludge facility for land reclamation or surface disposal, 39534  
the entity generating the sewage sludge, and not the landfill or 39535  
sewage sludge facility, shall pay the annual sludge fee for the 39536  
tons of sewage sludge that are transferred. 39537

(5) Not later than the first day of April of the calendar 39538  
year following March 17, 2000, and each first day of April 39539  
thereafter, the director shall issue invoices to persons who are 39540  
required to pay the annual sludge fee. The invoice shall identify 39541  
the nature and amount of the annual sludge fee assessed and state 39542  
the first day of May as the deadline for receipt by the director 39543  
of objections regarding the amount of the fee and the first day of 39544  
July as the deadline for payment of the fee. 39545

Not later than the first day of May following receipt of an 39546  
invoice, a person required to pay the annual sludge fee may submit 39547  
objections to the director concerning the accuracy of information 39548  
regarding the number of dry tons of sewage sludge used to 39549  
calculate the amount of the annual sludge fee or regarding whether 39550  
the sewage sludge qualifies for the exceptional quality sludge 39551  
discount established in division (Y)(2)(b) of this section. The 39552  
director may consider the objections and adjust the amount of the 39553  
fee to ensure that it is accurate. 39554

If the director does not adjust the amount of the annual 39555

sludge fee in response to a person's objections, the person may 39556  
appeal the director's determination in accordance with Chapter 39557  
119. of the Revised Code. 39558

Not later than the first day of June, the director shall 39559  
notify the objecting person regarding whether the director has 39560  
found the objections to be valid and the reasons for the finding. 39561  
If the director finds the objections to be valid and adjusts the 39562  
amount of the annual sludge fee accordingly, the director shall 39563  
issue with the notification a new invoice to the person 39564  
identifying the amount of the annual sludge fee assessed and 39565  
stating the first day of July as the deadline for payment. 39566

Not later than the first day of July, any person who is 39567  
required to do so shall pay the annual sludge fee. Any person who 39568  
is required to pay the fee, but who fails to do so on or before 39569  
that date shall pay an additional amount that equals ten per cent 39570  
of the required annual sludge fee. 39571

(6) The director shall transmit all moneys collected under 39572  
division (Y) of this section to the treasurer of state for deposit 39573  
into the surface water protection fund created in section 6111.038 39574  
of the Revised Code. The moneys shall be used to defray the costs 39575  
of administering and enforcing provisions in Chapter 6111. of the 39576  
Revised Code and rules adopted under it that govern the use, 39577  
storage, treatment, or disposal of sewage sludge. 39578

(7) Beginning in fiscal year 2001, and every two years 39579  
thereafter, the director shall review the total amount of moneys 39580  
generated by the annual sludge fees to determine if that amount 39581  
exceeded six hundred thousand dollars in either of the two 39582  
preceding fiscal years. If the total amount of moneys in the fund 39583  
exceeded six hundred thousand dollars in either fiscal year, the 39584  
director, after review of the fee structure and consultation with 39585  
affected persons, shall issue an order reducing the amount of the 39586  
fees levied under division (Y) of this section so that the 39587

estimated amount of moneys resulting from the fees will not exceed 39588  
six hundred thousand dollars in any fiscal year. 39589

If, upon review of the fees under division (Y)(7) of this 39590  
section and after the fees have been reduced, the director 39591  
determines that the total amount of moneys collected and 39592  
accumulated is less than six hundred thousand dollars, the 39593  
director, after review of the fee structure and consultation with 39594  
affected persons, may issue an order increasing the amount of the 39595  
fees levied under division (Y) of this section so that the 39596  
estimated amount of moneys resulting from the fees will be 39597  
approximately six hundred thousand dollars. Fees shall never be 39598  
increased to an amount exceeding the amount specified in division 39599  
(Y)(7) of this section. 39600

Notwithstanding section 119.06 of the Revised Code, the 39601  
director may issue an order under division (Y)(7) of this section 39602  
without the necessity to hold an adjudicatory hearing in 39603  
connection with the order. The issuance of an order under this 39604  
division is not an act or action for purposes of section 3745.04 39605  
of the Revised Code. 39606

(8) As used in division (Y) of this section: 39607

(a) "Sewage sludge facility" means an entity that performs 39608  
treatment on or is responsible for the disposal of sewage sludge. 39609

(b) "Sewage sludge" means a solid, semi-solid, or liquid 39610  
residue generated during the treatment of domestic sewage in a 39611  
treatment works as defined in section 6111.01 of the Revised Code. 39612  
"Sewage sludge" includes, but is not limited to, scum or solids 39613  
removed in primary, secondary, or advanced wastewater treatment 39614  
processes. "Sewage sludge" does not include ash generated during 39615  
the firing of sewage sludge in a sewage sludge incinerator, grit 39616  
and screenings generated during preliminary treatment of domestic 39617  
sewage in a treatment works, animal manure, residue generated 39618

during treatment of animal manure, or domestic septage. 39619

(c) "Exceptional quality sludge" means sewage sludge that 39620  
meets all of the following qualifications: 39621

(i) Satisfies the class A pathogen standards in 40 C.F.R. 39622  
503.32(a); 39623

(ii) Satisfies one of the vector attraction reduction 39624  
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 39625

(iii) Does not exceed the ceiling concentration limitations 39626  
for metals listed in table one of 40 C.F.R. 503.13; 39627

(iv) Does not exceed the concentration limitations for metals 39628  
listed in table three of 40 C.F.R. 503.13. 39629

(d) "Treatment" means the preparation of sewage sludge for 39630  
final use or disposal and includes, but is not limited to, 39631  
thickening, stabilization, and dewatering of sewage sludge. 39632

(e) "Disposal" means the final use of sewage sludge, 39633  
including, but not limited to, land application, land reclamation, 39634  
surface disposal, or disposal in a landfill or an incinerator. 39635

(f) "Land application" means the spraying or spreading of 39636  
sewage sludge onto the land surface, the injection of sewage 39637  
sludge below the land surface, or the incorporation of sewage 39638  
sludge into the soil for the purposes of conditioning the soil or 39639  
fertilizing crops or vegetation grown in the soil. 39640

(g) "Land reclamation" means the returning of disturbed land 39641  
to productive use. 39642

(h) "Surface disposal" means the placement of sludge on an 39643  
area of land for disposal, including, but not limited to, 39644  
monofills, surface impoundments, lagoons, waste piles, or 39645  
dedicated disposal sites. 39646

(i) "Incinerator" means an entity that disposes of sewage 39647  
sludge through the combustion of organic matter and inorganic 39648

matter in sewage sludge by high temperatures in an enclosed 39649  
device. 39650

(j) "Incineration facility" includes all incinerators owned 39651  
or operated by the same entity and located on a contiguous tract 39652  
of land. Areas of land are considered to be contiguous even if 39653  
they are separated by a public road or highway. 39654

(k) "Annual sludge fee" means the fee assessed under division 39655  
(Y)(1) of this section. 39656

(l) "Landfill" means a sanitary landfill facility, as defined 39657  
in rules adopted under section 3734.02 of the Revised Code, that 39658  
is licensed under section 3734.05 of the Revised Code. 39659

(m) "Preexisting land reclamation project" means a 39660  
property-specific land reclamation project that has been in 39661  
continuous operation for not less than five years pursuant to 39662  
approval of the activity by the director and includes the 39663  
implementation of a community outreach program concerning the 39664  
activity. 39665

**Sec. 3745.14.** (A) As used in this section: 39666

(1) "Compliance review" means the review of an application 39667  
for a permit, renewal of a permit, or plan approval, or 39668  
modification thereof, for an existing or proposed facility, 39669  
source, or activity and the accompanying engineering plans, 39670  
specifications, and materials and information that are submitted 39671  
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 39672  
and rules adopted under them for compliance with performance 39673  
standards under the applicable chapter and rules adopted under it. 39674  
"Compliance review" does not include the review of an application 39675  
for a hazardous waste facility installation and operation permit 39676  
or the renewal or modification of such a permit, a permit to 39677  
establish or modify an infectious waste treatment facility, a 39678

permit to install a solid waste incineration facility that also 39679  
would treat infectious wastes, or a permit to modify a solid waste 39680  
incineration facility to also treat infectious wastes under 39681  
Chapter 3734. of the Revised Code. 39682

(2) "Engineer" includes both of the following: 39683

(a) A professional engineer registered under Chapter 4733. of 39684  
the Revised Code; 39685

(b) A firm, partnership, association, or corporation 39686  
providing engineering services in this state in compliance with 39687  
Chapter 4733. of the Revised Code. 39688

(B) The director of environmental protection, in accordance 39689  
with Chapter 119. of the Revised Code, shall adopt, and may amend 39690  
and rescind, rules establishing a program for the certification of 39691  
engineers to conduct compliance reviews. The rules, at a minimum, 39692  
shall do all of the following: 39693

(1) Require that the program be administered by the director; 39694

(2) Establish eligibility criteria for certification to 39695  
conduct compliance reviews; 39696

(3) Establish criteria for denying, suspending, and revoking 39697  
certifications and renewals of certifications issued pursuant to 39698  
rules adopted under division (B) of this section; 39699

(4) Require the periodic renewal of certifications issued 39700  
pursuant to rules adopted under division (B) of this section; 39701

(5) Establish an application fee and fee for issuance for 39702  
certifications under this section. The fees shall be established 39703  
at a level calculated to defray the costs to the environmental 39704  
protection agency for administering the certification program 39705  
established by rules adopted under division (B) of this section. 39706  
All such application and certification fees received by the 39707  
director shall be deposited into the state treasury to the credit 39708

of the permit review fund created in division (E) of this section. 39709

(C) The director shall maintain a current list of all 39710  
engineers who are certified to conduct compliance reviews pursuant 39711  
to rules adopted under this section. The list shall indicate the 39712  
types of permits, permit renewals, and plan approvals that each 39713  
engineer is certified to review and the types or categories of 39714  
facilities, sources, or activities in connection with which the 39715  
engineer is certified to conduct the reviews. Upon request, the 39716  
director shall provide a copy of the list to anyone requesting it. 39717

(D) An applicant for a permit, renewal of a permit, plan 39718  
approval, or modification thereof, under Chapter 3704., 3734., 39719  
6109., or 6111. of the Revised Code and applicable rules adopted 39720  
under them, other than a hazardous waste facility installation and 39721  
operation permit or renewal or modification of such a permit, a 39722  
permit to establish or modify an infectious waste treatment 39723  
facility, a permit to install a solid waste incineration facility 39724  
that also would treat infectious wastes, or a permit to modify a 39725  
solid waste incineration facility to also treat infectious wastes 39726  
under Chapter 3734. of the Revised Code, may submit a written 39727  
request to the director to have the compliance review conducted by 39728  
an engineer certified under this section. The request shall 39729  
accompany the permit application, shall indicate the applicant's 39730  
choice from among the certified engineers on the director's list 39731  
who are qualified to conduct the compliance review, shall be 39732  
accompanied by separate certifications by the applicant and the 39733  
engineer indicating that the applicant does not have and has not 39734  
had during the preceding two years a financial interest in the 39735  
engineer and has not employed or retained the engineer to perform 39736  
services for the applicant during the preceding two years, and may 39737  
be accompanied by a draft proposal for conducting the compliance 39738  
review that was developed by the applicant and the engineer. No 39739  
such draft proposal is binding upon the director. 39740

Within seven days after receiving a request under this 39741  
division, the director shall do all of the following, as 39742  
appropriate: 39743

(1) In the director's discretion, approve or disapprove the 39744  
applicant's request to have the compliance review of the 39745  
application conducted by an engineer on the list of certified 39746  
engineers prepared under this section; 39747

(2) If the director approves the conducting of the compliance 39748  
review by such a certified engineer, approve or disapprove, in the 39749  
director's discretion, the applicant's choice of the engineer; 39750

(3) Mail written notice of decisions made under divisions 39751  
(D)(1) and (2) of this section to the applicant. 39752

If the director fails to mail notice of the director's 39753  
decisions on the request to the applicant within seven days after 39754  
receiving the request, it is conclusively presumed that the 39755  
director approved the applicant's request to have the compliance 39756  
review conducted by a certified engineer and the applicant's 39757  
choice of the engineer, and the director shall enter into a 39758  
contract with the engineer chosen by the applicant. If the 39759  
director disapproves the applicant's choice of an engineer and 39760  
provides timely notice of the disapproval to the applicant, the 39761  
director and applicant, by mutual agreement, shall select another 39762  
engineer from the list prepared under this section to conduct the 39763  
compliance review, and the director shall enter into a contract 39764  
with that engineer. 39765

(E) The director may enter into contracts for conducting 39766  
performance reviews under division (D) of this section without 39767  
advertising for bids. The commencement of any work under such a 39768  
contract shall be contingent upon the director's receipt of 39769  
payment from the applicant of an amount that is equal to one 39770  
hundred ten per cent of the amount specified in the contract, 39771

excluding contingencies for any additional work that may be needed 39772  
to properly complete the review and that was not anticipated when 39773  
the contract was made. Moneys received by the director from an 39774  
applicant shall be deposited into the permit review fund, which is 39775  
hereby created in the state treasury. The director shall use 39776  
moneys in the fund to pay the cost of compliance reviews conducted 39777  
pursuant to contracts entered into under division (D) of this 39778  
section and to administer the certification program established 39779  
under division (B) of this section. The director may use any 39780  
moneys in the fund not needed for those purposes to administer the 39781  
environmental laws or programs of this state. 39782

If, while conducting a compliance review, the engineer finds 39783  
that work in addition to that upon which the cost under the 39784  
contract was based, or any additional work previously authorized 39785  
under this division, is needed to properly review the application 39786  
and accompanying information for compliance with the applicable 39787  
performance standards, the engineer shall notify the director of 39788  
that fact and of the cost of the additional work, as determined 39789  
pursuant to the terms of the contract. If the director finds that 39790  
the additional work is needed and that the costs of performing the 39791  
work have been determined in accordance with the terms of the 39792  
contract, the director shall authorize the contractor to perform 39793  
the work. Upon completion of the additional work, the contractor 39794  
shall submit to the director an invoice for the cost of performing 39795  
the additional work, and the director shall forward a copy of the 39796  
invoice to the applicant. The applicant is liable to the state for 39797  
an amount equal to one hundred ten per cent of the cost of 39798  
performing the additional work and, within thirty days after 39799  
receiving a copy of the invoice, shall pay to the director an 39800  
amount equal to one hundred ten per cent of the amount indicated 39801  
on the invoice. Upon receiving this payment, the director shall 39802  
forward the moneys to the treasurer of state, who shall deposit 39803  
them into the state treasury to the credit of the permit review 39804

fund. 39805

Until the applicant pays to the director the amount due in 39806  
connection with the additional work, the director shall not issue 39807  
to the applicant any permit, renewal of a permit, or plan 39808  
approval, or modification thereof, for which an application is 39809  
pending before the director. The director also may certify the 39810  
unpaid amount to the attorney general and request that the 39811  
attorney general bring a civil action against the applicant to 39812  
recover that amount. Any moneys so recovered shall be deposited 39813  
into the state treasury to the credit of the permit review fund. 39814

(F) Upon completing a compliance review conducted under this 39815  
section, the engineer shall make a certification to the director 39816  
as to whether the existing or proposed facility, source, activity, 39817  
or modification will comply with the applicable performance 39818  
standards. If the certification indicates that the existing or 39819  
proposed facility, source, activity, or modification will not 39820  
comply, the engineer shall include in the certification the 39821  
engineer's findings as to the causes of the noncompliance. 39822

(G) When a compliance review is conducted by an engineer 39823  
certified under this section, the other activities in connection 39824  
with the consideration, approval, and issuance of the permit, 39825  
renewal of the permit, or plan approval, or modification thereof, 39826  
shall be conducted by the director ~~or, when applicable, the~~ 39827  
~~hazardous waste facility board established in section 3734.05 of~~ 39828  
~~the Revised Code,~~ in accordance with the applicable provisions of 39829  
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 39830  
rules adopted under the applicable chapter. 39831

(H) All expenses incurred by the attorney general in bringing 39832  
a civil action under this section shall be reimbursed from the 39833  
permit review fund in accordance with Chapter 109. of the Revised 39834  
Code. 39835

**Sec. 3745.40.** (A) There is hereby created the clean Ohio 39836  
operating fund consisting of moneys credited to the fund in 39837  
accordance with this section. The fund shall be used to pay the 39838  
costs incurred by the director of environmental protection 39839  
pursuant to sections 122.65 to 122.658 of the Revised Code. 39840  
Investment earnings of the fund shall be credited to the fund. ~~For~~ 39841  
~~two years after the effective date of this section, investment~~ 39842  
~~earnings credited to the fund~~ and may be used to pay 39843  
administrative costs incurred by the director pursuant to those 39844  
sections. 39845

(B) Notwithstanding section 3746.16 of the Revised Code, upon 39846  
the request of the director of environmental protection, the 39847  
director of development shall certify to the director of budget 39848  
and management the amount of excess investment earnings that are 39849  
available to be transferred from the clean Ohio revitalization 39850  
fund created in section 122.658 of the Revised Code to the clean 39851  
Ohio operating fund. Upon certification, the director of budget 39852  
and management may transfer from the clean Ohio revitalization 39853  
fund to the clean Ohio operating fund an amount not exceeding the 39854  
amount of the annual appropriation to the clean Ohio operating 39855  
fund. 39856

**Sec. 3746.02.** (A) Nothing in this chapter applies to any of 39857  
the following: 39858

(1) Property for which a voluntary action under this chapter 39859  
is precluded by federal law or regulations adopted under federal 39860  
law, including, without limitation, any of the following federal 39861  
laws or regulations adopted thereunder: 39862

(a) The "Federal Water Pollution Control Act Amendments of 39863  
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 39864

(b) The "Resource Conservation and Recovery Act of 1976," 90 39865

Stat. 2806, 42 U.S.C.A. 6921, as amended;	39866
(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;	39867 39868
(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;	39869 39870 39871
(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.	39872 39873
(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;	39874 39875 39876
(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 <del>commerce, including</del> <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;	39877 39878 39879 39880 39881 39882
(4) Property that is subject to Chapter 1509. of the Revised Code;	39883 39884
(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that <del>he</del> <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 <del>he</del> <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	39885 39886 39887 39888 39889 39890 39891 39892 39893 39894 39895 39896

action program under this chapter shall be defined by the director 39897  
by rules adopted under section 3746.04 of the Revised Code. Until 39898  
such time as the director has adopted those rules, the director, 39899  
at a minimum, shall consider the existence of a contract with a 39900  
certified professional to appropriately respond to the threat 39901  
named in the director's letter informing the person of ~~his~~ the 39902  
director's intent to issue an enforcement order and the 39903  
availability of financial resources to complete the contract to be 39904  
sufficient evidence of entry into the program. 39905

(B) The application of any provision of division (A) of this 39906  
section to a portion of property does not preclude participation 39907  
in the voluntary action program under this chapter in connection 39908  
with other portions of the property where those provisions do not 39909  
apply. 39910

(C) As used in this section, "property" means any parcel of 39911  
real property, or portion thereof, and any improvements thereto. 39912

**Sec. 3746.13.** (A) For property that does not involve the 39913  
issuance of a consolidated standards permit under section 3746.15 39914  
of the Revised Code and where no engineering or institutional 39915  
controls are used to comply with applicable standards, the 39916  
director of environmental protection shall issue a covenant not to 39917  
sue pursuant to section 3746.12 of the Revised Code by issuance of 39918  
an order as a final action under Chapter 3745. of the Revised Code 39919  
within thirty days after the director receives the no further 39920  
action letter for the property and accompanying verification from 39921  
the certified professional who prepared the letter under section 39922  
3746.11 of the Revised Code. 39923

(B) For property that involves the issuance of a consolidated 39924  
standards permit under section 3746.15 of the Revised Code or 39925  
where engineering or institutional controls are used to comply 39926  
with applicable standards, the director shall issue a covenant not 39927

to sue by issuance of an order as a final action under Chapter 39928  
3745. of the Revised Code within ninety days after the director 39929  
receives the no further action letter for the property and 39930  
accompanying verification from the certified professional who 39931  
prepared the letter. 39932

(C) Except as provided in division (D) of this section, each 39933  
person who is issued a covenant not to sue under this section 39934  
shall pay the fee established pursuant to rules adopted under 39935  
division (B)(8) of section 3746.04 of the Revised Code. Until 39936  
those rules become effective, each person who is issued a covenant 39937  
not to sue shall pay a fee of two thousand dollars. The fee shall 39938  
be paid to the director at the time that the no further action 39939  
letter and accompanying verification are submitted to the 39940  
director. 39941

(D) An applicant, as defined in section 122.65 of the Revised 39942  
Code, who has entered into an agreement under section 122.653 of 39943  
the Revised Code and who is issued a covenant not to sue under 39944  
this section shall not be required to pay the fee for the issuance 39945  
of a covenant not to sue established in rules adopted under 39946  
division (B)(8) of section 3746.04 of the Revised Code. 39947

**Sec. 3747.16.** (A) As provided in division (A)(17) of section 39948  
3747.06 of the Revised Code, the staff of the board of directors 39949  
of the Ohio low-level radioactive waste facility development 39950  
authority shall negotiate with the legislative authority of the 39951  
host community for the purpose of developing a compensation 39952  
agreement. The agreement shall include compensation for all of the 39953  
following: 39954

(1) Replacement of lost tax revenue due to public ownership 39955  
of any property based on the amount of tax revenue that would have 39956  
been received if the property had not been acquired by the 39957  
authority on behalf of the state for use as a disposal site; 39958

(2) Improvements in the public infrastructure necessary to support development and operation of the facility; 39959  
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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; 39961  
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(4) Enhanced emergency response capability, including, without limitation, personnel and equipment; 39965  
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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; 39967  
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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. 39972  
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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.~~ 39975  
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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. 39983  
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(2) The legislative authority of the host community may 39989  
request the board to establish epidemiological health studies in 39990  
the host community in accordance with division (A)(18) of section 39991  
3747.06 of the Revised Code. 39992

(C) An affected community may petition the board for 39993  
compensation for direct impacts on that community. The staff of 39994  
the board shall negotiate any such agreement, and the board shall 39995  
approve, approve with modifications requested by the board, or 39996  
disapprove the agreement in accordance with division (A)(17) of 39997  
section 3747.06 of the Revised Code. 39998

(D) At any time after final determination of licensure of the 39999  
facility and until the expiration of the first five years that the 40000  
facility is in operation, a property owner within the host 40001  
community or an affected community who is selling or attempting to 40002  
sell the property owner's property and who can demonstrate to the 40003  
board that the property has been devalued as a direct result of 40004  
the siting of the facility in the host community may petition the 40005  
board for compensation or for the purchase of the property in 40006  
accordance with rules adopted under division (A)(13) of section 40007  
3747.07 of the Revised Code. 40008

**Sec. 3748.07.** (A) Every facility that proposes to handle 40009  
radioactive material or radiation-generating equipment for which 40010  
licensure or registration, respectively, by its handler is 40011  
required shall apply in writing to the director of health on forms 40012  
prescribed and provided by the director for licensure or 40013  
registration. Terms and conditions of licenses and certificates of 40014  
registration may be amended in accordance with rules adopted under 40015  
section 3748.04 of the Revised Code or orders issued by the 40016  
director pursuant to section 3748.05 of the Revised Code. 40017

(B) Until rules are adopted under section 3748.04 of the 40018  
Revised Code, an application for a certificate of registration 40019

shall be accompanied by a biennial registration fee of ~~one~~ two 40020  
hundred ~~sixty~~ dollars. On and after the effective date of those 40021  
rules, an applicant for a license, registration certificate, or 40022  
renewal of either shall pay the appropriate fee established in 40023  
those rules. 40024

All fees collected under this section shall be deposited in 40025  
the state treasury to the credit of the general operations fund 40026  
created in section 3701.83 of the Revised Code. The fees shall be 40027  
used solely to administer and enforce this chapter and rules 40028  
adopted under it. 40029

Any fee required under this section that has not been paid 40030  
within ninety days after the invoice date shall be assessed at two 40031  
times the original invoiced fee. Any fee that has not been paid 40032  
within one hundred eighty days after the invoice date shall be 40033  
assessed at five times the original invoiced fee. 40034

(C) The director shall grant a license or registration to any 40035  
applicant who has paid the required fee and is in compliance with 40036  
this chapter and rules adopted under it. 40037

Until rules are adopted under section 3748.04 of the Revised 40038  
Code, certificates of registration shall be effective for two 40039  
years from the date of issuance. On and after the effective date 40040  
of those rules, licenses and certificates of registration shall be 40041  
effective for the applicable period established in those rules. 40042  
Licenses and certificates of registration shall be renewed in 40043  
accordance with the standard renewal procedure established in 40044  
Chapter 4745. of the Revised Code. 40045

**Sec. 3748.13.** (A) The director of health shall inspect 40046  
sources of radiation for which licensure or registration by the 40047  
handler is required, and the sources' shielding and surroundings, 40048  
according to the schedule established in rules adopted under 40049  
division (D) of section 3748.04 of the Revised Code. In accordance 40050

with rules adopted under that section, the director shall inspect 40051  
all records and operating procedures of handlers that install 40052  
sources of radiation and all sources of radiation for which 40053  
licensure of radioactive material or registration of 40054  
radiation-generating equipment by the handler is required. The 40055  
director may make other inspections upon receiving complaints or 40056  
other evidence of violation of this chapter or rules adopted under 40057  
it. 40058

The director shall require any hospital registered under 40059  
division (A) of section 3701.07 of the Revised Code to develop and 40060  
maintain a quality assurance program for all sources of 40061  
radiation-generating equipment. A certified radiation expert shall 40062  
conduct oversight and maintenance of the program and shall file a 40063  
report of audits of the program with the director on forms 40064  
prescribed by the director. The audit reports shall become part of 40065  
the inspection record. 40066

(B) Until rules are adopted under division (A)(8) of section 40067  
3748.04 of the Revised Code, a facility shall pay inspection fees 40068  
according to the following schedule and categories: 40069

First dental x-ray tube	\$ <del>94.00</del> <u>118.00</u>	40070
Each additional dental x-ray tube at the same location	\$ <del>47.00</del> <u>59.00</u>	40071
First medical x-ray tube	<del>\$187.00</del> <u>235.00</u>	40072
Each additional medical x-ray tube at the same location	\$ <del>94.00</del> <u>125.00</u>	40073
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	<del>\$373.00</del> <u>466.00</u>	40074
First nonionizing radiation-generating equipment of any kind	<del>\$187.00</del> <u>235.00</u>	40075

Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ <del>94.00</del> <u>125.00</u>	40076
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ <del>233.00</del> <u>291.00</u>	40077

Until rules are adopted under division (A)(8) of section 40078  
3748.04 of the Revised Code, the fee for an inspection to 40079  
determine whether violations cited in a previous inspection have 40080  
been corrected is fifty per cent of the fee applicable under the 40081  
schedule in this division. Until those rules are adopted, the fee 40082  
for the inspection of a facility that is not licensed or 40083  
registered and for which no license or registration application is 40084  
pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ 40085  
sixty-three dollars plus the fee applicable under the schedule in 40086  
this division. 40087

The director may conduct a review of shielding plans or the 40088  
adequacy of shielding on the request of a licensee or registrant 40089  
or an applicant for licensure or registration or during an 40090  
inspection when the director considers a review to be necessary. 40091  
Until rules are adopted under division (A)(8) of section 3748.04 40092  
of the Revised Code, the fee for the review is ~~four~~ five hundred 40093  
~~sixty-six~~ eighty-three dollars for each room where a source of 40094  
radiation is used and is in addition to any other fee applicable 40095  
under the schedule in this division. 40096

All fees shall be paid to the department of health no later 40097  
than thirty days after the invoice for the fee is mailed. Fees 40098  
shall be deposited in the general operations fund created in 40099  
section 3701.83 of the Revised Code. The fees shall be used solely 40100  
to administer and enforce this chapter and rules adopted under it. 40101

Any fee required under this section that has not been paid 40102  
within ninety days after the invoice date shall be assessed at two 40103  
times the original invoiced fee. Any fee that has not been paid 40104  
within one hundred eighty days after the invoice date shall be 40105  
assessed at five times the original invoiced fee. 40106

(C) If the director determines that a board of health of a 40107  
city or general health district is qualified to conduct 40108  
inspections of radiation-generating equipment, the director may 40109  
delegate to the board, by contract, the authority to conduct such 40110  
inspections. In making a determination of the qualifications of a 40111  
board of health to conduct those inspections, the director shall 40112  
evaluate the credentials of the individuals who are to conduct the 40113  
inspections of radiation-generating equipment and the radiation 40114  
detection and measuring equipment available to them for that 40115  
purpose. If a contract is entered into, the board shall have the 40116  
same authority to make inspections of radiation-generating 40117  
equipment as the director has under this chapter and rules adopted 40118  
under it. The contract shall stipulate that only individuals 40119  
approved by the director as qualified shall be permitted to 40120  
inspect radiation-generating equipment under the contract's 40121  
provisions. The contract shall provide for such compensation for 40122  
services as is agreed to by the director and the board of health 40123  
of the contracting health district. The director may reevaluate 40124  
the credentials of the inspection personnel and their radiation 40125  
detecting and measuring equipment as often as the director 40126  
considers necessary and may terminate any contract with the board 40127  
of health of any health district that, in the director's opinion, 40128  
is not satisfactorily performing the terms of the contract. 40129

(D) The director may enter at all reasonable times upon any 40130  
public or private property to determine compliance with this 40131  
chapter and rules adopted under it. 40132

**Sec. 3769.087.** (A) In addition to the commission of eighteen 40133  
per cent retained by each permit holder as provided in section 40134  
3769.08 of the Revised Code, each permit holder shall retain an 40135  
additional amount equal to four per cent of the total of all 40136  
moneys wagered on each racing day on all wagering pools other than 40137  
win, place, and show, of which amount retained an amount equal to 40138  
three per cent of the total of all moneys wagered on each racing 40139  
day on those pools shall be paid by check, draft, or money order 40140  
to the tax commissioner, as a tax. Subject to the restrictions 40141  
contained in divisions (B), (C), and (M) of section 3769.08 of the 40142  
Revised Code, from such additional moneys paid to the tax 40143  
commissioner: 40144

(1) Four-sixths shall be allocated to fund distribution as 40145  
provided in division (M) of section 3769.08 of the Revised Code. 40146

(2) One-twelfth shall be paid into the Ohio fairs fund 40147  
created by section 3769.082 of the Revised Code. 40148

(3) One-twelfth of the additional moneys paid to the tax 40149  
commissioner by thoroughbred racing permit holders shall be paid 40150  
into the Ohio thoroughbred race fund created by section 3769.083 40151  
of the Revised Code. 40152

(4) One-twelfth of the additional moneys paid to the tax 40153  
commissioner by harness horse racing permit holders shall be paid 40154  
to the Ohio standardbred development fund created by section 40155  
3769.085 of the Revised Code. 40156

(5) One-twelfth of the additional moneys paid to the tax 40157  
commissioner by quarter horse racing permit holders shall be paid 40158  
to the Ohio quarter horse development fund created by section 40159  
3769.086 of the Revised Code. 40160

(6) One-sixth shall be paid into the state racing commission 40161  
operating fund created by section 3769.03 of the Revised Code. 40162

The remaining one per cent that is retained of the total of 40163  
all moneys wagered on each racing day on all pools other than win, 40164  
place, and show, shall be retained by racing permit holders, and, 40165  
except as otherwise provided in section 3769.089 of the Revised 40166  
Code, racing permit holders shall use one-half for purse money and 40167  
retain one-half. 40168

(B) In addition to the commission of eighteen per cent 40169  
retained by each permit holder as provided in section 3769.08 of 40170  
the Revised Code and the additional amount retained by each permit 40171  
holder as provided in division (A) of this section, each permit 40172  
holder shall retain an additional amount equal to one-half of one 40173  
per cent of the total of all moneys wagered on each racing day on 40174  
all wagering pools other than win, place, and show. ~~From~~ Except as 40175  
provided in division (C) of this section, from the additional 40176  
amount retained under this division, each permit holder shall 40177  
retain an amount equal to one-quarter of one per cent of the total 40178  
of all moneys wagered on each racing day on all pools other than 40179  
win, place, and show and shall pay that amount by check, draft, or 40180  
money order to the tax commissioner, as a tax. The tax 40181  
commissioner shall pay the amount of the tax received under this 40182  
division to the state racing commission operating fund created by 40183  
section 3769.03 of the Revised Code. 40184

~~The~~ Except as provided in division (C) of this section, the 40185  
remaining one-quarter of one per cent that is retained from the 40186  
total of all moneys wagered on each racing day on all pools other 40187  
than win, place, and show shall be retained by the permit holder, 40188  
and the permit holder shall use one-half for purse money and 40189  
retain one-half. 40190

(C) During the period commencing on July 1, 2003, and ending 40191  
on and including June 30, 2005, the additional amount retained by 40192  
each permit holder under division (B) of this section shall be 40193  
paid by check, draft, or money order to the tax commissioner, as a 40194

tax. The tax commissioner shall pay the amount of the tax received 40195  
under this division to the state racing commission operating fund 40196  
created by section 3769.03 of the Revised Code. 40197

**Sec. 3770.07.** (A)~~(1)~~ Lottery prize awards shall be claimed by 40198  
the holder of the winning lottery ticket, or by the executor or 40199  
administrator, or the trustee of a trust, of the estate of a 40200  
deceased holder of a winning ticket, in a manner to be determined 40201  
by the state lottery commission, within one hundred eighty days 40202  
after the date on which such prize award was announced if the 40203  
lottery game is an on-line game, and within one hundred eighty 40204  
days after the close of the game if the lottery game is an instant 40205  
game. ~~Except as otherwise provided in division (B) of this~~ 40206  
~~section, if~~ If no valid claim to the prize award is made within 40207  
the prescribed period, the prize money or the cost of goods and 40208  
services awarded as prizes, or if such goods or services are 40209  
resold by the commission, the proceeds from such sale, shall be 40210  
returned to the state lottery fund and distributed in accordance 40211  
with section 3770.06 of the Revised Code. 40212

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 40213  
the Revised Code, is under eighteen years of age, or is under some 40214  
other legal disability, and the prize money or the cost of goods 40215  
or services awarded as a prize exceeds one thousand dollars, the 40216  
director shall order that payment be made to the order of the 40217  
legal guardian of that prize winner. If the amount of the prize 40218  
money or the cost of goods or services awarded as a prize is one 40219  
thousand dollars or less, the director may order that payment be 40220  
made to the order of the adult member, if any, of that prize 40221  
winner's family legally responsible for the care of that prize 40222  
winner. 40223

~~(3)~~(C) No right of any prize winner, as defined in section 40224  
3770.10 of the Revised Code, to a prize award shall be the subject 40225

of a security interest or used as collateral. 40226

~~(4)(a)(D)(1)~~ No right of any prize winner, as defined in 40227  
section 3770.10 of the Revised Code, to a prize award shall be 40228  
assignable, or subject to garnishment, attachment, execution, 40229  
withholding, or deduction, except as follows: as provided in 40230  
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 40231  
Revised Code; when the payment is to be made to the executor or 40232  
administrator or the trustee of a trust of the estate of a winning 40233  
ticket holder; when the award of a prize is disputed, any person 40234  
may be awarded a prize award to which another has claimed title, 40235  
pursuant to the order of a court of competent jurisdiction; when 40236  
the director is to make a payment pursuant to ~~section~~ sections 40237  
3770.071 or 3770.073 of the Revised Code; or as provided in 40238  
sections 3770.10 to 3770.14 of the Revised Code. 40239

~~(b)(2)~~ The commission shall adopt rules pursuant to section 40240  
3770.03 of the Revised Code concerning the payment of prize awards 40241  
upon the death of a prize winner. Upon the death of a prize 40242  
winner, as defined in section 3770.10 of the Revised Code, the 40243  
remainder of the prize winner's prize award, to the extent it is 40244  
not subject to a transfer agreement under sections 3770.10 to 40245  
3770.14 of the Revised Code, may be paid to the executor, 40246  
administrator, or trustee in the form of a discounted lump sum 40247  
cash settlement. 40248

~~(5)(E)~~ No lottery prize award shall be awarded to or for any 40249  
officer or employee of the state lottery commission, any officer 40250  
or employee of the auditor of state actively coordinating and 40251  
certifying commission drawings, or any blood relative or spouse of 40252  
such officer or employee of the commission or auditor of state 40253  
living as a member of such officer's or employee's household, nor 40254  
shall any such employee, blood relative, or spouse attempt to 40255  
claim a lottery prize award. 40256

~~(6)(F)~~ The director may prohibit vendors to the commission 40257

and their employees from being awarded a lottery prize award. 40258

~~(7)(G)~~ Upon the payment of prize awards pursuant to this 40259  
section, the director and the commission are discharged from all 40260  
further liability therefor. 40261

~~(B) The commission may adopt rules governing the disbursement 40262  
of unclaimed prize awards as all or part of the prize award in a 40263  
lottery and may, pursuant to those rules, conduct the lottery and 40264  
disburse any such unclaimed prize awards. Any lottery in which all 40265  
or any part of the prize award is paid from unclaimed prize awards 40266  
shall be conducted in accordance with all of the other 40267  
requirements of this chapter, including, but not limited to, the 40268  
time and proof requirements for claiming awards and the 40269  
disposition of unclaimed prize awards when the prescribed period 40270  
for claiming the award has passed. A prize award or any part of a 40271  
prize award that is paid from an unclaimed prize award shall not 40272  
be reapplied toward the satisfaction of the requirement of 40273  
division (A) of section 3770.06 of the Revised Code that at least 40274  
fifty per cent of the total revenues from ticket sales be 40275  
disbursed for monetary prize awards, if such unclaimed prize award 40276  
was previously applied toward the satisfaction of that 40277  
requirement. On or before the last day of January and July each 40278  
year, the commission shall report to the general assembly the 40279  
gross sales and net profits the commission obtained from the 40280  
unclaimed prize awards in lotteries conducted pursuant to this 40281  
division during the preceding two calendar quarters, including the 40282  
amount of money produced by the games funded by the unclaimed 40283  
prize awards and the total revenue accruing to the state from the 40284  
prize award lotteries conducted pursuant to this division. 40285~~

~~There is hereby established in the state treasury the 40286  
unclaimed lottery prizes fund, to which all unclaimed prize awards 40287  
shall be transferred. Any interest that accrues on the amounts in 40288  
the fund shall become a part of the fund and shall be subject to 40289~~

~~any rules adopted by the commission governing the disbursement of~~ 40290  
~~unclaimed prize awards.~~ 40291

Sec. 3770.073. (A) If a person is entitled to a lottery prize 40292  
award and is indebted to the state for the payment of any tax, 40293  
workers' compensation premium, unemployment contribution, payment 40294  
in lieu of unemployment contribution, or charge, penalty, or 40295  
interest arising from these debts and the amount of the prize 40296  
money or the cost of goods or services awarded as a lottery prize 40297  
award is five thousand dollars or more, the director of the state 40298  
lottery commission, or the director's designee, shall do either of 40299  
the following: 40300

(1) If the prize award will be paid in a lump sum, deduct 40301  
from the prize award and pay to the attorney general an amount in 40302  
satisfaction of the debt and pay any remainder to that person. If 40303  
the amount of the prize award is less than the amount of the debt, 40304  
the entire amount of the prize award shall be deducted and paid in 40305  
partial satisfaction of the debt. 40306

(2) If the prize award will be paid in annual installments, 40307  
on the date the initial installment payment is due, deduct from 40308  
that installment and pay to the attorney general an amount in 40309  
satisfaction of the debt and, if necessary to collect the full 40310  
amount of the debt, do the same for any subsequent annual 40311  
installments, at the time the installments become due and owing to 40312  
the person, until the debt is fully satisfied. 40313

(B) If a person entitled to a lottery prize award owes more 40314  
than one debt, any debt subject to section 5739.33 or division (G) 40315  
of section 5747.07 of the Revised Code shall be satisfied first. 40316

(C) This section applies only to debts that have become 40317  
final. 40318

**Sec. 3770.10.** As used in sections 3770.07 and 3770.10 to 40319

3770.14 of the Revised Code: 40320

(A) "Court of competent jurisdiction" means either the 40321  
general division or the probate division of the court of common 40322  
pleas of the county in which the prize winner resides, or, if the 40323  
prize winner is not a resident of this state, either the general 40324  
division or the probate division of the court of common pleas of 40325  
Franklin county or a federal court having jurisdiction over the 40326  
lottery prize award. 40327

(B) "Discounted present value" means the present value of the 40328  
future payments of a lottery prize award that is determined by 40329  
discounting those payments to the present, using the most recently 40330  
published applicable federal rate for determining the present 40331  
value of an annuity as issued by the United States internal 40332  
revenue service and assuming daily compounding. 40333

(C) "Independent professional advice" means the advice of an 40334  
attorney, a certified public accountant, an actuary, or any other 40335  
licensed professional adviser if all of the following apply: 40336

(1) The prize winner has engaged the services of the licensed 40337  
professional adviser to render advice concerning the legal and 40338  
other implications of a transfer of the lottery prize award. 40339

(2) The licensed professional adviser is not affiliated in 40340  
any manner with or compensated in any manner by the transferee of 40341  
the lottery prize award. 40342

(3) The compensation of the licensed professional adviser is 40343  
not affected by whether or not a transfer of a lottery prize award 40344  
occurs. 40345

(D) "Prize winner" means any person that holds the right to 40346  
receive all or any part of a lottery prize award as a result of 40347  
being any of the following: 40348

(1) A person who is a claimant under division (A)~~(1)~~ of 40349

section 3770.07 of the Revised Code; 40350

(2) A person who is entitled to a prize award and who is 40351  
under a legal disability as described in division ~~(A)(2)~~(B) of 40352  
section 3770.07 of the Revised Code; 40353

(3) A person who was awarded a prize award to which another 40354  
has claimed title by a court order under division ~~(A)(4)(a)~~(D)(1) 40355  
of section 3770.07 of the Revised Code; 40356

(4) A person who is receiving payments upon the death of a 40357  
prize winner as provided in division ~~(A)(4)(b)~~(D)(2) of section 40358  
3770.07 of the Revised Code. 40359

(E) "Transfer" means any form of sale, assignment, or 40360  
redirection of payment of all or any part of a lottery prize award 40361  
for consideration. 40362

(F) "Transfer agreement" means an agreement that is complete 40363  
and valid, and that provides for the transfer of all or any part 40364  
of a lottery prize award from a transferor to a transferee. A 40365  
transfer agreement is incomplete and invalid unless the agreement 40366  
contains both of the following: 40367

(1) A statement, signed by the transferor under penalties of 40368  
perjury, that the transferor irrevocably agrees that the 40369  
transferor is subject to the tax imposed by Chapter 5733. or 5747. 40370  
of the Revised Code with respect to gain or income which the 40371  
transferor will recognize in connection with the transfer. If the 40372  
transferor is a pass-through entity, as defined in section 5733.04 40373  
of the Revised Code, each investor in the pass-through entity 40374  
shall also sign under penalties of perjury a statement that the 40375  
investor irrevocably agrees that the investor is subject to the 40376  
tax imposed by Chapter 5733. or 5747. of the Revised Code with 40377  
respect to gain or income which the transferor and the investor 40378  
will recognize in connection with the transfer. 40379

(2) A statement, signed by the transferee, that the 40380

transferee irrevocably agrees that the transferee is subject to 40381  
the withholding requirements imposed by division (C) of section 40382  
3770.072 of the Revised Code and is subject to the tax imposed by 40383  
Chapter 5733. or 5747. of the Revised Code with respect to gain or 40384  
income which the transferee will recognize in connection with 40385  
lottery prize awards to be received as a result of the transfer. 40386  
If the transferee is a pass-through entity, as defined in section 40387  
5733.04 of the Revised Code, each investor in the pass-through 40388  
entity shall also sign under penalties of perjury a statement 40389  
setting forth that the investor irrevocably agrees that the 40390  
investor is subject to the withholding requirements imposed by 40391  
division (C) of section 3770.072 of the Revised Code and is 40392  
subject to the tax imposed by Chapter 5733. or 5747. of the 40393  
Revised Code with respect to gain or income which the transferee 40394  
and the investor will recognize in connection with lottery prize 40395  
awards to be received as a result of the transfer. 40396

(G) "Transferee" means a party acquiring or proposing to 40397  
acquire all or any part of a lottery prize award through a 40398  
transfer. 40399

(H) "Transferor" means either a prize winner or a transferee 40400  
in an earlier transfer whose interest is acquired by or is sought 40401  
to be acquired by a transferee or a new transferee through a 40402  
transfer. 40403

**Sec. 3770.12.** A court of competent jurisdiction ~~may~~ shall 40404  
approve a transfer of a lottery prize award only in a final order 40405  
that is based on ~~the~~ express findings of the court, ~~and the.~~ The 40406  
court shall approve the transfer only if each of the following 40407  
conditions that applies is met and is included in the court's 40408  
express findings ~~shall include all of the following:~~ 40409

(A) If the transferor is a prize winner, the transferee has 40410  
provided to the prize winner a disclosure statement that complies 40411

with section 3770.11 of the Revised Code, and the prize winner has 40412  
confirmed the prize winner's receipt of the disclosure statement, 40413  
as evidenced by the prize winner's notarized signature on a copy 40414  
of the disclosure statement. 40415

~~(B) If the transferor is a prize winner, the prize winner has 40416  
established that the transfer is fair and reasonable and in the 40417  
best interests of the prize winner. 40418~~

~~(C)~~ If the transferor is a prize winner, the prize winner has 40419  
received independent professional advice regarding the legal and 40420  
other implications of the transfer. 40421

~~(D)~~(C) The transferee has given written notice of the 40422  
transferee's name, address, and taxpayer identification number to 40423  
the state lottery commission and has filed a copy of that notice 40424  
with the court in which the application for approval of the 40425  
transfer was filed. 40426

~~(E)~~(D) The transferee is a trust, limited partnership, 40427  
general partnership, corporation, professional association, 40428  
limited liability company, or other entity that is qualified to do 40429  
business in this state and meets the registration requirements for 40430  
that type of entity under Title XVII of the Revised Code. 40431

~~(F)~~(E) The transfer complies with all applicable requirements 40432  
of the Revised Code and does not contravene any applicable law. 40433

~~(G)~~(F) The transfer does not include or cover the amounts of 40434  
the lottery prize award that are required to be withheld or 40435  
deducted pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 40436  
3123.06, 3770.071, or 3770.072 of the Revised Code. 40437

~~(H)~~(G) Any amounts described in division ~~(G)~~(F) of this 40438  
section that are required to be withheld or deducted, as of the 40439  
date of the court order, will be offset by the commission first 40440  
against remaining payments due the transferor and then against 40441  
payments due the transferee. 40442

~~(I)~~(H) Except as provided in divisions (F) and (G) and ~~(H)~~ of 40443  
this section, that the transferor's interest in each and all of 40444  
the future payments from a particular lottery prize award is to be 40445  
paid to a single transferee, or, if the payments from the lottery 40446  
prize award are to be directed from the state lottery commission 40447  
to multiple transferees, the commission has promulgated rules 40448  
under section 3770.03 of the Revised Code permitting transfers to 40449  
multiple transferees, and the transfer is consistent with those 40450  
rules. 40451

~~(J)~~(I) If the lottery prize award has been transferred within 40452  
twelve months immediately preceding the effective date of the 40453  
proposed transfer, the state lottery commission has not objected 40454  
to the proposed transfer. The court shall presume that the 40455  
requirements of this division are met unless the commission 40456  
notifies the court in writing before the hearing on the 40457  
application for transfer, or through counsel at that hearing, that 40458  
a transfer of the same lottery prize award has been made within 40459  
that twelve-month period and that the commission objects to a 40460  
subsequent transfer within that twelve-month period. The court 40461  
shall find that the requirements of this division are not met if 40462  
the commission provides notice of a prior transfer of the same 40463  
lottery prize award within that twelve-month period and its 40464  
objection to the proposed transfer, unless the transferor or 40465  
transferee shows by clear and convincing evidence that no previous 40466  
transfer of the same lottery prize award occurred within that 40467  
twelve-month period. 40468

If the court determines that all of the conditions in 40469  
divisions (A) to (I) of this section that apply are met, the 40470  
transfer of the lottery prize award shall be presumed to be fair 40471  
and reasonable and in the best interests of the prize winner. 40472

**Sec. 3770.99.** (A) Whoever is prohibited from claiming a 40473

lottery prize award under division ~~(A)(5)~~(E) of section 3770.07 of 40474  
the Revised Code and attempts to claim or is paid a lottery prize 40475  
award is guilty of a minor misdemeanor, and shall provide 40476  
restitution to the state lottery commission of any moneys 40477  
erroneously paid as a lottery prize award to that person. 40478

(B) Whoever violates division (C) of section 3770.071 or 40479  
section 3770.08 of the Revised Code is guilty of a misdemeanor of 40480  
the third degree. 40481

**Sec. 3773.33.** (A) There is hereby created the Ohio athletic 40482  
commission. The commission shall consist of five voting members 40483  
appointed by the governor with the advice and consent of the 40484  
senate, not more than three of whom shall be of the same political 40485  
party, and two nonvoting members, one of whom shall be a member of 40486  
the senate appointed by and to serve at the pleasure of the 40487  
president of the senate and one of whom shall be a member of the 40488  
house of representatives appointed by and to serve at the pleasure 40489  
of the speaker of the house of representatives. To be eligible for 40490  
appointment as a voting member, a person shall be a qualified 40491  
elector and a resident of the state for not less than five years 40492  
immediately preceding the person's appointment. Two voting members 40493  
shall be knowledgeable in boxing, at least one voting member shall 40494  
be knowledgeable and experienced in high school athletics, one 40495  
voting member shall be knowledgeable and experienced in 40496  
professional athletics, and at least one voting member shall be 40497  
knowledgeable and experienced in collegiate athletics. One 40498  
commission member shall hold the degree of doctor of medicine or 40499  
doctor of osteopathy. 40500

(B) No person shall be appointed to the commission or be an 40501  
employee of the commission who is licensed, registered, or 40502  
regulated by the commission. No member shall have any legal or 40503  
beneficial interest, direct or indirect, pecuniary or otherwise, 40504

in any person who is licensed, registered, or regulated by the 40505  
commission or who participates in prize fights or public boxing or 40506  
wrestling matches or exhibitions. No member shall participate in 40507  
any fight, match, or exhibition other than in the member's 40508  
official capacity as a member of the commission, or as an 40509  
inspector as authorized in section 3773.52 of the Revised Code. 40510

(C) The governor shall appoint the voting members to the 40511  
commission. Of the initial appointments, two shall be for terms 40512  
ending one year after September 3, 1996, two shall be for terms 40513  
ending two years after September 3, 1996, and one shall be for a 40514  
term ending three years after September 3, 1996. Thereafter, terms 40515  
of office shall be for three years, each term ending the same day 40516  
of the same month of the year as did the term which it succeeds. 40517  
Each member shall hold office from the date of the member's 40518  
appointment until the end of the term for which the member was 40519  
appointed. Any member appointed to fill a vacancy occurring prior 40520  
to the expiration of the term for which the member's predecessor 40521  
was appointed shall hold office for the remainder of the term. Any 40522  
member shall continue in office subsequent to the expiration date 40523  
of the member's term until the member's successor takes office, or 40524  
until a period of sixty days has elapsed, whichever occurs first. 40525

The governor shall name one voting member as chairperson of 40526  
the commission at the time of making the appointment of any member 40527  
for a full term. Three voting members shall constitute a quorum, 40528  
and the affirmative vote of three voting members shall be 40529  
necessary for any action taken by the commission. No vacancy on 40530  
the commission impairs the authority of the remaining members to 40531  
exercise all powers of the commission. 40532

Voting members, when engaged in commission duties, shall 40533  
receive a per diem compensation determined in accordance with 40534  
division (J) of section 124.15 of the Revised Code, and all 40535  
members shall receive their actual and necessary expenses incurred 40536

in the performance of their official duties. 40537

Each voting member, before entering upon the discharge of the 40538  
member's duties, shall file a surety bond payable to the treasurer 40539  
of state in the sum of ten thousand dollars. Each surety bond 40540  
shall be conditioned upon the faithful performance of the duties 40541  
of the office, executed by a surety company authorized to transact 40542  
business in this state, and filed in the office of the secretary 40543  
of state. 40544

The governor may remove any voting member for malfeasance, 40545  
misfeasance, or nonfeasance in office after giving the member a 40546  
copy of the charges against the member and affording the member an 40547  
opportunity for a public hearing, at which the member may be 40548  
represented by counsel, upon not less than ten days' notice. If 40549  
the member is removed, the governor shall file a complete 40550  
statement of all charges made against the member and the 40551  
governor's finding ~~thereon~~ on the charges in the office of the 40552  
secretary of state, together with a complete report of the 40553  
proceedings. The governor's decision shall be final. 40554

~~(D) The commission shall maintain an office in Youngstown and 40555  
keep all of its permanent records there. 40556~~

**Sec. 3773.43.** The Ohio athletic commission shall charge the 40557  
following fees: 40558

(A) For an application for or renewal of a promoter's license 40559  
for public boxing matches or exhibitions, ~~fifty~~ one hundred 40560  
dollars. 40561

(B) For an application for or renewal of a license to 40562  
participate in a public boxing match or exhibition as a 40563  
contestant, or as a referee, judge, matchmaker, manager, 40564  
timekeeper, trainer, or second of a contestant, ~~ten~~ twenty 40565  
dollars. 40566

(C) For a permit to conduct a public boxing match or 40567  
exhibition, ~~ten~~ fifty dollars. 40568

(D) For an application for or renewal of a promoter's license 40569  
for professional wrestling matches or exhibitions, ~~one~~ two hundred 40570  
dollars. 40571

(E) For a permit to conduct a professional wrestling match or 40572  
exhibition, ~~fifty~~ one hundred dollars. 40573

The commission, subject to the approval of the controlling 40574  
board, may establish fees in excess of the amounts provided in 40575  
this section, provided that such fees do not exceed the amounts 40576  
permitted by this section by more than ~~twenty-five~~ fifty per cent. 40577

The fees prescribed by this section shall be paid to the 40578  
treasurer of state, who shall deposit the fees in the occupational 40579  
licensing and regulatory fund. 40580

**Sec. 3781.07.** There is hereby established in the department 40581  
of commerce a board of building and fire standards consisting of 40582  
~~ten~~ the state fire marshal, the superintendent of the division of 40583  
industrial compliance, and thirteen members appointed by the 40584  
governor with the advice and consent of the senate. The board 40585  
shall appoint a secretary who shall serve in the unclassified 40586  
civil service for a term of six years at a salary fixed pursuant 40587  
to Chapter 124. of the Revised Code. The board may employ 40588  
additional staff in the classified civil service. The secretary 40589  
may be removed by the board under the rules the board adopts. 40590  
Terms of office of appointed members shall be for four years, 40591  
commencing on the fourteenth day of October and ending on the 40592  
thirteenth day of October. Each member shall hold office from the 40593  
date of appointment until the end of the term for which the member 40594  
was appointed. Any member appointed to fill a vacancy occurring 40595  
prior to the expiration of the term for which the member's 40596

predecessor was appointed shall hold office for the remainder of 40597  
such term. Any member shall continue in office subsequent to the 40598  
expiration date of the member's term until the member's successor 40599  
takes office, or until a period of sixty days has elapsed, 40600  
whichever occurs first. One of the members appointed to the board 40601  
shall be an attorney at law, admitted to the bar of this state; 40602  
two shall be registered architects; two shall be professional 40603  
engineers, one in the field of mechanical and one in the field of 40604  
structural engineering, each of whom shall be duly licensed to 40605  
practice such profession in this state; one shall be a person of 40606  
recognized ability, broad training, and fifteen years experience 40607  
in problems and practice incidental to the construction and 40608  
equipment of buildings specified in section 3781.06 of the Revised 40609  
Code; one shall be a person with recognized ability and experience 40610  
in the manufacture and construction of industrialized units as 40611  
defined in section 3781.06 of the Revised Code; one shall be a 40612  
member of the fire service with recognized ability and broad 40613  
training in the field of fire protection and suppression; one 40614  
shall be a person with at least ten years of experience and 40615  
recognized expertise in building codes and standards and the 40616  
manufacture of construction materials; ~~and~~ one shall be a general 40617  
contractor with experience in residential and commercial 40618  
construction one shall be a building official chosen from a list 40619  
of candidates submitted to the governor by the Ohio building 40620  
officials association; one shall be a fire chief with recognized 40621  
ability and broad training in the field of fire prevention chosen 40622  
from a list of candidates submitted to the governor by the Ohio 40623  
fire chiefs association; and one shall be a fire fighter with 40624  
recognized ability and broad training in the field of fire 40625  
protection and suppression systems chosen from a list of 40626  
candidates submitted to the governor by the Ohio fire alliance. 40627  
Each member of the board, not otherwise required to take an oath 40628  
of office, shall take the oath prescribed by the constitution. 40629

Each member shall receive as compensation an amount fixed pursuant 40630  
to division (J) of section 124.15 of the Revised Code, and shall 40631  
receive actual and necessary expenses in the performance of 40632  
official duties. The amount of such expenses shall be certified by 40633  
the secretary of the board and paid in the same manner as the 40634  
expenses of employees of the department of commerce are paid. 40635

Sec. 3781.071. (A) There is hereby created within the 40636  
department of commerce the Ohio building code advisory committee 40637  
consisting of the superintendent of industrial compliance or the 40638  
superintendent's designee and four persons appointed by the 40639  
governor. Of the advisory committee's members, one shall be a 40640  
building official recommended by the Ohio building officials 40641  
association; one shall be a licensed architect recommended by the 40642  
Ohio chapter of the American institute of architects, one shall be 40643  
a registered professional engineer recommended by the American 40644  
council of engineering companies of Ohio; and one shall be a 40645  
registered professional engineer recommended by the Ohio society 40646  
of professional engineers. 40647

(B) The governor shall make appointments to the advisory 40648  
committee within ninety days after the effective date of this 40649  
section. Terms of office shall be for three years, with each term 40650  
ending on the date three years after the date of appointment. Each 40651  
member shall hold office from the date of appointment until the 40652  
end of the term for which the member was appointed. The governor 40653  
shall fill a vacancy in the manner provided for initial 40654  
appointments. Any member appointed to fill a vacancy in an 40655  
unexpired term shall hold office as a member for the remainder of 40656  
that term. 40657

(C) Members of the advisory committee shall receive no salary 40658  
for the performance of their duties as members, but shall receive 40659  
their actual and necessary expenses incurred in the performance of 40660

their duties as members of the advisory committee. 40661

(D) The advisory committee is not subject to divisions (A) 40662  
and (B) of section 101.84 of the Revised Code. 40663

(E) The advisory committee shall do all of the following: 40664

(1) Advise the board of building and fire standards 40665  
concerning adoption of the building code, including the mechanical 40666  
code, plumbing code, fuel gas code, and other codes relative to 40667  
buildings and structures other than the fire code; 40668

(2) Advise the board regarding the establishment of standards 40669  
for certification of building officials who enforce the building 40670  
code; 40671

(3) Assist the board in providing information and guidance to 40672  
contractors and building officials who enforce the building code; 40673

(4) Advise the board regarding the interpretation of the 40674  
building code adopted by the board pursuant to section 3781.10 of 40675  
the Revised Code; 40676

(5) Make recommendations to the board regarding other matters 40677  
that may impact upon the specific duties and areas of concern 40678  
assigned to the committee; 40679

(6) Provide other assistance as it considers necessary. 40680

(F) In providing advice concerning adoption of the building 40681  
code pursuant to division (E)(1) of this section, the advisory 40682  
committee and the Ohio fire code advisory committee shall make 40683  
joint recommendations to the board as those advisory committees 40684  
determine appropriate. 40685

**Sec. 3781.072.** (A) There is hereby created within the 40686  
department of commerce the Ohio fire code advisory committee 40687  
consisting of the state fire marshal or the fire marshal's 40688  
designee and four persons appointed by the governor. Of the 40689

advisory committee's members, one shall be recommended by the Ohio 40690  
association of professional fire fighters; one shall be 40691  
recommended by the Ohio state fire fighters association, one shall 40692  
be recommended by the Ohio fire chiefs association; and one shall 40693  
be recommended by the Ohio fire officials association. 40694

(B) The governor shall make appointments to the advisory 40695  
committee within ninety days after the effective date of this 40696  
section. Terms of office shall be for three years, with each term 40697  
ending on the date three years after the date of appointment. Each 40698  
member shall hold office from the date of appointment until the 40699  
end of the term for which the member was appointed. The governor 40700  
shall fill a vacancy in the manner provided for initial 40701  
appointments. Any member appointed to fill a vacancy in an 40702  
unexpired term shall hold office as a member for the remainder of 40703  
that term. 40704

(C) Members of the advisory committee shall receive no salary 40705  
for the performance of their duties as members, but shall receive 40706  
their actual and necessary expenses incurred in the performance of 40707  
their duties as members of the advisory committee. 40708

(D) The advisory committee is not subject to divisions (A) 40709  
and (B) of section 101.84 of the Revised Code. 40710

(E) The advisory committee shall do all of the following: 40711

(1) Advise the board of building and fire standards 40712  
concerning adoption of the state fire code; 40713

(2) Advise the board regarding the interpretation of the 40714  
state fire code adopted pursuant to section 3737.82 of the Revised 40715  
Code; 40716

(3) Make recommendations to the board regarding other matters 40717  
that may impact upon the duties and specific areas of concern 40718  
assigned to the committee; 40719

(4) Any additional duties required by the board. 40720

(F) In providing advice concerning adoption of the state fire 40721  
code pursuant to division (E)(1) of this section, the advisory 40722  
committee and the Ohio building code advisory committee shall make 40723  
joint recommendations to the board as those advisory committees 40724  
determine appropriate. 40725

**Sec. 3781.19.** There is hereby established in the department 40726  
of commerce a board of building appeals consisting of ~~five~~ seven 40727  
members who shall be appointed by the governor with the advice and 40728  
consent of the senate. Terms of office shall be for four years, 40729  
commencing on the fourteenth day of October and ending on the 40730  
thirteenth day of October. Each member shall hold office from the 40731  
date of ~~his~~ appointment until the end of the term for which ~~he~~ the 40732  
member was appointed. Any member appointed to fill a vacancy 40733  
occurring prior to the expiration of the term for which ~~his~~ the 40734  
member's predecessor was appointed shall hold office for the 40735  
remainder of such term. Any member shall continue in office 40736  
subsequent to the expiration date of ~~his~~ the member's term until 40737  
~~his~~ a successor takes office, or until a period of sixty days has 40738  
elapsed, whichever occurs first. One member shall be an 40739  
attorney-at-law, admitted to the bar of this state and of the 40740  
remaining members, one shall be a registered architect and one 40741  
shall be a professional engineer, each of whom shall be duly 40742  
licensed to practice their respective professions in this state, 40743  
one shall be a fire prevention officer qualified under section 40744  
3737.66 of the Revised Code, ~~and~~ one shall be a person with 40745  
recognized ability in the plumbing or pipefitting profession, one 40746  
shall be a fire protection engineer, and one shall be a certified 40747  
building professional. No member of the board of building and fire 40748  
standards shall be a member of the board of building appeals. Each 40749  
member shall be paid an amount fixed pursuant to Chapter 124. of 40750

the Revised Code per diem. The department shall provide and assign 40751  
to the board such employees as are required by the board to 40752  
perform its functions. The board may adopt its own rules of 40753  
procedure not inconsistent with sections 3781.06 to 3781.18 and 40754  
3791.04 of the Revised Code, and may change them in its 40755  
discretion. The board may establish reasonable fees, based on 40756  
actual costs for administration of filing and processing, not to 40757  
exceed ~~one~~ two hundred dollars, for the costs of filing and 40758  
processing appeals. A full and complete record of all proceedings 40759  
of the board shall be kept and be open to public inspection. 40760

In the enforcement by any department of the state or any 40761  
political subdivision of this chapter and Chapter 3791., and 40762  
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.44, 4104.45, 40763  
4105.011, and 4105.11 of the Revised Code and any rule made 40764  
thereunder, such department is the agency referred to in sections 40765  
119.07, 119.08, and 119.10 of the Revised Code. 40766

The appropriate municipal or county board of appeals, where 40767  
one exists, certified pursuant to section 3781.20 of the Revised 40768  
Code shall conduct the adjudication hearing referred to in 40769  
sections 119.09 to 119.13 and required by section 3781.031 of the 40770  
Revised Code. If there is no certified municipal or county board 40771  
of appeals, the board of building appeals shall conduct the 40772  
adjudication hearing. If the adjudication hearing concerns section 40773  
3781.111 of the Revised Code or any rule made thereunder, 40774  
reasonable notice of the time, date, place, and subject of the 40775  
hearing shall be given to any local corporation, association, or 40776  
other organization composed of or representing handicapped 40777  
persons, as defined in section 3781.111 of the Revised Code, or if 40778  
there is no local organization, then to any statewide corporation, 40779  
association, or other organization composed of or representing 40780  
handicapped persons. 40781

In addition to the provisions of Chapter 119. of the Revised 40782

Code, the municipal, county, or state board of building appeals, 40783  
as the agency conducting the adjudication hearing, may reverse or 40784  
modify the order of the enforcing agency if it finds that the 40785  
order is contrary to this chapter and Chapters 3791. and 4104., 40786  
and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised 40787  
Code and any rule made thereunder or to a fair interpretation or 40788  
application of such laws or any rule made thereunder, or that a 40789  
variance from the provisions of such laws or any rule made 40790  
thereunder, in the specific case, will not be contrary to the 40791  
public interest where a literal enforcement of such provisions 40792  
will result in unnecessary hardship. 40793

The state board of building appeals or a certified municipal 40794  
or county board of appeals shall render its decision within thirty 40795  
days after the date of the adjudication hearing. Following the 40796  
adjudication hearing, any municipal or county officer, official 40797  
municipal or county board, or person who was a party to the 40798  
hearing before the municipal or county board of appeals may apply 40799  
to the state board of appeals for a de novo hearing before the 40800  
state board, or may appeal directly to the court of common pleas 40801  
pursuant to section 3781.031 of the Revised Code. 40802

In addition, any local corporation, association, or other 40803  
organization composed of or representing handicapped persons as 40804  
defined in section 3781.111 of the Revised Code, or, if no local 40805  
corporation, association, or organization exists, then any 40806  
statewide corporation, association, or other organization composed 40807  
of or representing handicapped persons may apply for the de novo 40808  
hearing or appeal to the court of common pleas from any decision 40809  
of a certified municipal or county board of appeals interpreting, 40810  
applying, or granting a variance from section 3781.111 of the 40811  
Revised Code and any rule made thereunder. Application for a de 40812  
novo hearing before the state board shall be made no later than 40813  
thirty days after the municipal or county board renders its 40814

decision. 40815

The state board of building appeals or the appropriate 40816  
certified local board of building appeals shall grant variances 40817  
and exemptions from the requirements of section 3781.108 of the 40818  
Revised Code in accordance with rules adopted by the board of 40819  
building standards pursuant to division (J) of section 3781.10 of 40820  
the Revised Code. 40821

The state board of building appeals or the appropriate 40822  
certified local board of building appeals shall, in granting a 40823  
variance or exemption from section 3781.108 of the Revised Code, 40824  
in addition to any other considerations the state or the 40825  
appropriate local board determines appropriate, consider the 40826  
architectural and historical significance of the building. 40827

Sec. 3781.22. Wherever in the Revised Code reference is made 40828  
to the board of building standards, the reference is deemed to 40829  
mean the board of building and fire standards. The legislative 40830  
service commission shall change references to the board of 40831  
building standards to the board of building and fire standards as 40832  
sections of the Revised Code are amended. 40833

**Sec. 3901.491.** (A) As used in this section: 40834

(1) "Genetic screening or testing" means a laboratory test of 40835  
a person's genes or chromosomes for abnormalities, defects, or 40836  
deficiencies, including carrier status, that are linked to 40837  
physical or mental disorders or impairments, or that indicate a 40838  
susceptibility to illness, disease, or other disorders, whether 40839  
physical or mental, which test is a direct test for abnormalities, 40840  
defects, or deficiencies, and not an indirect manifestation of 40841  
genetic disorders. 40842

(2) "Insurer" means any person authorized under Title XXXIX 40843  
of the Revised Code to engage in the business of sickness and 40844

accident insurance. 40845

(3) "Sickness and accident insurance" means sickness and 40846  
accident insurance under Chapter 3923. of the Revised Code 40847  
excluding disability income insurance and excluding supplemental 40848  
policies of sickness and accident insurance. 40849

(B) Upon the repeal of section 3901.49 of the Revised Code ~~by~~ 40850  
~~Sub. H.B. No. 71 of the 120th general assembly,~~ no insurer shall 40851  
do either of the following: 40852

(1) Consider any information obtained from genetic screening 40853  
or testing in processing an application for an individual or group 40854  
policy of sickness and accident insurance, or in determining 40855  
insurability under such a policy; 40856

(2) Inquire, directly or indirectly, into the results of 40857  
genetic screening or testing or use such information, in whole or 40858  
in part, to cancel, refuse to issue or renew, or limit benefits 40859  
under, a sickness and accident insurance policy. 40860

(C) Any insurer that has engaged in, is engaged in, or is 40861  
about to engage in a violation of division (B) of this section is 40862  
subject to the jurisdiction of the superintendent of insurance 40863  
under section 3901.04 of the Revised Code. 40864

**Sec. 3901.501.** (A) As used in this section: 40865

(1) "Genetic screening or testing" means a laboratory test of 40866  
a person's genes or chromosomes for abnormalities, defects, or 40867  
deficiencies, including carrier status, that are linked to 40868  
physical or mental disorders or impairments, or that indicate a 40869  
susceptibility to illness, disease, or other disorders, whether 40870  
physical or mental, which test is a direct test for abnormalities, 40871  
defects, or deficiencies, and not an indirect manifestation of 40872  
genetic disorders. 40873

(2) "Self-insurer" means any government entity providing 40874

coverage for health care services on a self-insurance basis. 40875

(B) Upon the repeal of section 3901.50 of the Revised Code ~~by~~ 40876  
~~Sub. H.B. No. 71 of the 120th general assembly,~~ no self-insurer 40877  
shall do either of the following: 40878

(1) Consider any information obtained from genetic screening 40879  
or testing in processing an application for coverage under a plan 40880  
of self-insurance or in determining insurability under such a 40881  
plan; 40882

(2) Inquire, directly or indirectly, into the results of 40883  
genetic screening or testing or use such information, in whole or 40884  
in part, to cancel, refuse to provide or renew, or limit benefits 40885  
under, a plan of self-insurance. 40886

(C) Any self-insurer that has engaged in, is engaged in, or 40887  
is about to engage in a violation of division (B) of this section 40888  
is subject to the jurisdiction of the superintendent of insurance 40889  
under section 3901.04 of the Revised Code. 40890

**Sec. 3901.72.** Any person may advance to a domestic insurance 40891  
company or a health insuring corporation any sum of money 40892  
necessary for the purpose of the insurance company's or health 40893  
insuring corporation's business, or to enable the insurance 40894  
company or health insuring corporation to comply with any law, or 40895  
as a cash guarantee fund. Such money, and interest agreed upon, 40896  
~~not exceeding ten per cent per annum or the total of four hundred~~ 40897  
~~basis points plus the rate on United States treasury notes or~~ 40898  
~~bonds closest in maturity to the final repayment date of the money~~ 40899  
~~so advanced, whichever is greater,~~ shall not be a liability or 40900  
claim against the insurance company or health insuring 40901  
corporation, or any of its assets, except as provided in this 40902  
section, and shall be repaid only out of the surplus earnings of 40903  
such insurance company or health insuring corporation. Except as 40904  
ordered by the superintendent of insurance, no part of the 40905

principal or interest thereof shall be repaid until the surplus of 40906  
the insurance company or health insuring corporation remaining 40907  
after such repayment is equal in amount to the principal of the 40908  
money so advanced. Such advancement and repayment shall be subject 40909  
to the approval of the superintendent, provided that this section 40910  
shall not affect the power to borrow money which any such 40911  
insurance company or health insuring corporation possesses under 40912  
other laws. No commission or promotion expenses shall be paid by 40913  
the insurance company or health insuring corporation, in 40914  
connection with the advance of any such money to the insurance 40915  
company or health insuring corporation, and the amount of any such 40916  
unpaid advance shall be reported in each annual statement. 40917

**Sec. 3901.86.** (A) When the laws of any other state, district, 40918  
territory, or nation impose any taxes, fines, penalties, license 40919  
fees, deposits of money, securities, or other obligations or 40920  
prohibitions on insurance companies of this state doing business 40921  
in that state, district, territory, or nation, or upon their 40922  
agents therein, the same obligations and prohibitions shall be 40923  
imposed upon insurance companies of the other state, district, or 40924  
nation doing business in this state and upon their agents. 40925

When the laws of any other state, district, territory, or 40926  
nation impose a requirement for countersignature and payment of a 40927  
fee or commission upon agents of this state for placing any 40928  
coverage in that state, district, territory, or nation, then the 40929  
same requirements of countersignature and fee or commission shall 40930  
be imposed upon agents of that state, district, territory, or 40931  
nation for placing any coverage in this state. 40932

(B) Beginning on July 1, 1993, twenty per cent of the amount 40933  
that is collected under division (A) of this section from foreign 40934  
insurance companies that sell fire insurance to residents of this 40935  
state shall be paid into the state fire marshal's fund created 40936

under section 3737.71 of the Revised Code. The director of 40937  
~~commerce~~ public safety, with the approval of the director of 40938  
budget and management, may increase the percentage described in 40939  
this division so that it will yield an amount that the director of 40940  
~~commerce~~ public safety determines necessary to assist in the 40941  
maintenance and administration of the office of the fire marshal 40942  
and in defraying the costs of operating the Ohio fire academy 40943  
established by section 3737.33 of the Revised Code. 40944

**Sec. 4104.01.** As used in sections 4104.01 to 4104.20 and 40945  
section 4104.99 of the Revised Code: 40946

(A) "Board of building standards" or "board" means the board 40947  
established by section 3781.07 of the Revised Code. 40948

(B) "Superintendent" means the superintendent of the division 40949  
of industrial compliance created by section 121.04 of the Revised 40950  
Code. 40951

(C) "Boiler" means a closed vessel in which water is heated, 40952  
steam is generated, steam is superheated, or any combination 40953  
thereof, under pressure or vacuum for use externally to itself by 40954  
the direct application of heat from the combustion of fuels, or 40955  
from electricity or nuclear energy. "Boiler" includes fired units 40956  
for heating or vaporizing liquids other than water where these 40957  
units are separate from processing systems and are complete within 40958  
themselves. 40959

(D) "Power boiler" means a boiler in which steam or other 40960  
vapor (to be used externally to itself) is generated at a pressure 40961  
of more than fifteen psig. 40962

(E) "High pressure, high temperature water boiler" means a 40963  
water heating boiler operating at pressures exceeding one hundred 40964  
sixty psig or temperatures exceeding two hundred fifty degrees 40965  
Fahrenheit. 40966

(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 40997  
qualification of inspectors of boilers and ~~unfired~~ pressure 40998  
vessels; 40999

(B) Prescribe tests, if it is considered necessary, to 41000  
ascertain the qualities of materials used in the construction of 41001  
boilers and ~~unfired~~ pressure vessels; 41002

(C) Adopt rules regulating the construction and sizes of 41003  
safety valves for boilers and ~~unfired~~ pressure vessels of 41004  
different sizes and pressures, for the construction, use, and 41005  
location of fusible plugs, appliances for indicating the pressure 41006  
of steam and level of water in the boiler or ~~unfired~~ pressure 41007  
vessels, and such other appliances as the board considers 41008  
necessary to safety in operating boilers; 41009

(D) Establish reasonable fees for the performance of reviews, 41010  
surveys, or audits of manufacturer's facilities by the division of 41011  
industrial compliance for certification by the American society of 41012  
mechanical engineers and the national board of boiler and pressure 41013  
vessel inspectors; 41014

(E) The definitions and rules adopted by the board for the 41015  
construction, installation, ~~inspection~~, repair, conservation of 41016  
energy, and operation of boilers and the construction, ~~inspection~~, 41017  
and repair of ~~unfired~~ pressure vessels and for ascertaining the 41018  
safe working pressures to be used on such boilers and ~~unfired~~ 41019  
pressure vessels shall be based upon and follow generally accepted 41020  
engineering standards, formulae, and practices established and 41021  
pertaining to boilers and ~~unfired~~ pressure vessel construction, 41022  
operation, and safety, and the board may, for this purpose, adopt 41023  
existing published standards as well as amendments thereto 41024  
subsequently published by the same authority. 41025

When a person desires to manufacture a special type of boiler 41026  
or ~~unfired~~ pressure vessel, the design of which is not covered by 41027

the rules of the board, the person shall submit drawings and 41028  
specifications of such boiler or ~~unfired~~ pressure vessel to the 41029  
board for investigation, after which the board may permit its 41030  
installation. 41031

The provisions of sections 119.03 and 119.11 of the Revised 41032  
Code in particular, and the applicable provisions of Chapter 119. 41033  
of the Revised Code in general, shall govern the proceedings of 41034  
the board of building standards in adopting, amending, or 41035  
rescinding rules pursuant to this section. 41036

**Sec. 4104.04.** (A) Sections 4104.01 to 4104.20 and section 41037  
4104.99 of the Revised Code do not apply to the following boilers 41038  
and ~~unfired~~ pressure vessels: 41039

(1) Boilers, ~~unfired~~ pressure vessels, and stationary steam 41040  
engines under federal control or subject to inspection under 41041  
federal laws; 41042

(2) Air tanks located on vehicles operating under the rules 41043  
of other state authorities and used for carrying passengers, or 41044  
freight; 41045

(3) Air tanks installed on the right of way of railroads and 41046  
used directly in the operation of trains; 41047

(4) ~~Unfired pressure~~ Pressure vessels ~~which that~~ are under 41048  
the regulation and control of the state fire marshal under Chapter 41049  
3737. of the Revised Code. 41050

(B) The following boilers and ~~unfired~~ pressure vessels are 41051  
exempt from the requirements of sections 4104.10, 4104.101, 41052  
4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be 41053  
equipped with such appliances, to insure safety of operation, as 41054  
are prescribed by the board: 41055

(1) Portable boilers or ~~unfired~~ pressure vessels when located 41056  
on farms and used solely for agricultural purposes; 41057

(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;

(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;

(4) ~~Unfired pressure~~ Pressure 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;

(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil;

(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges;

(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use.

**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.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers

and their appurtenances, and ~~unfired~~ pressure vessels. 41088

(C) Notwithstanding division (B) of this section, the 41089  
superintendent shall not adopt rules relating to construction, 41090  
maintenance, or repair of boilers and their appurtenances, or 41091  
repair of ~~unfired~~ pressure vessels. 41092

(D) The superintendent and each general inspector may enter 41093  
any premises and any building or room at all reasonable hours to 41094  
perform an examination or inspection. 41095

**Sec. 4104.07.** (A) An application for examination as an 41096  
inspector of boilers and ~~unfired~~ pressure vessels shall be in 41097  
writing, accompanied by a fee of fifty dollars, upon a blank to be 41098  
furnished by the superintendent of industrial compliance. Any 41099  
moneys collected under this section shall be paid into the state 41100  
treasury to the credit of the industrial compliance operating fund 41101  
created in section 121.084 of the Revised Code. 41102

(B) The superintendent shall determine if an applicant meets 41103  
all the requirements for examination in accordance with rules 41104  
adopted by the board of building standards under section 4104.02 41105  
of the Revised Code. An application shall be rejected which 41106  
contains any willful falsification, or untruthful statements. 41107

(C) An applicant shall be examined by the superintendent, by 41108  
a written examination, prescribed by the board, dealing with the 41109  
construction, installation, operation, maintenance, and repair of 41110  
boilers and ~~unfired~~ pressure vessels and their appurtenances, and 41111  
the applicant shall be accepted or rejected on the merits of the 41112  
applicant's application and examination. 41113

(D) Upon a favorable report by the superintendent of the 41114  
result of an examination, the superintendent shall immediately 41115  
issue to the successful applicant a certificate of competency to 41116  
that effect. 41117

**Sec. 4104.08.** (A) The director of commerce may appoint from 41118  
the holders of certificates of competency provided for in section 41119  
4104.07 of the Revised Code, general inspectors of boilers and 41120  
~~unfired~~ pressure vessels. 41121

(B) Any company authorized to insure boilers and ~~unfired~~ 41122  
pressure vessels against explosion in this state may designate 41123  
from holders of certificates of competency issued by the 41124  
superintendent of industrial compliance, or holders of 41125  
certificates of competency or commissions issued by other states 41126  
or nations whose examinations for certificates or commissions have 41127  
been approved by the board of building standards, persons to 41128  
inspect and stamp boilers and ~~unfired~~ pressure vessels covered by 41129  
the company's policies, and the superintendent shall issue to such 41130  
persons commissions authorizing them to act as special inspectors. 41131  
Special inspectors shall be compensated by the company designating 41132  
them. 41133

(C) The director of commerce shall establish an annual fee to 41134  
be charged by the superintendent for each certificate of 41135  
competency or commission the superintendent issues. 41136

(D) The superintendent shall issue to each general or special 41137  
inspector a commission to the effect that the holder thereof is 41138  
authorized to inspect boilers and ~~unfired~~ pressure vessels in this 41139  
state. 41140

(E) No person shall be authorized to act as a general 41141  
inspector or a special inspector who is directly or indirectly 41142  
interested in the manufacture or sale of boilers or ~~unfired~~ 41143  
pressure vessels. 41144

**Sec. 4104.15.** (A) All certificates of inspection for boilers, 41145  
issued prior to October 15, 1965, are valid and effective for the 41146  
period set forth in such certificates unless sooner withdrawn by 41147

the superintendent of industrial compliance. The owner or user of 41148  
any such boiler shall obtain an appropriate certificate of 41149  
operation for such boiler, and shall not operate such boiler, or 41150  
permit it to be operated unless a certificate of operation has 41151  
been obtained in accordance with section 4104.17 of the Revised 41152  
Code. 41153

(B) If, upon making the internal and external inspection 41154  
required under sections 4104.11, 4104.12, and 4104.13 of the 41155  
Revised Code, the inspector finds the boiler to be in safe working 41156  
order, with the fittings necessary to safety, and properly set up, 41157  
upon the inspector's report to the superintendent, the 41158  
superintendent shall issue to the owner or user thereof, or renew, 41159  
upon application and upon compliance with sections 4104.17 and 41160  
4104.18 of the Revised Code, a certificate of operation which 41161  
shall state the maximum pressure at which the boiler may be 41162  
operated, as ascertained by the rules of the board of building 41163  
standards. Such certificates shall also state the name of the 41164  
owner or user, the location, size, and number of each boiler, and 41165  
the date of issuance, and shall be so placed as to be easily read 41166  
in the engine room or boiler room of the plant where the boiler is 41167  
located, except that the certificate of operation for a portable 41168  
boiler shall be kept on the premises and shall be accessible at 41169  
all times. 41170

(C) If an inspector at any inspection finds that the boiler 41171  
or ~~unfired~~ pressure vessel is not in safe working condition, or is 41172  
not provided with the fittings necessary to safety, or if the 41173  
fittings are improperly arranged, the inspector shall immediately 41174  
notify the owner or user and person in charge of the boiler and 41175  
shall report the same to the superintendent who may revoke, 41176  
suspend, or deny the certificate of operation and not renew the 41177  
same until the boiler or ~~unfired~~ pressure vessel and its fittings 41178  
are put in condition to insure safety of operation, and the owner 41179

or user shall not operate the boiler or ~~unfired~~ pressure vessel, 41180  
or permit it to be operated until such certificate has been 41181  
granted or restored. 41182

(D) If the superintendent or a general boiler inspector finds 41183  
that ~~an unfired~~ a pressure vessel or boiler or a part thereof 41184  
poses an explosion hazard that reasonably can be regarded as 41185  
posing an imminent danger of death or serious physical harm to 41186  
persons, the superintendent or the general boiler inspector shall 41187  
seal the ~~unfired~~ pressure vessel or boiler and order, in writing, 41188  
the operator or owner of the ~~unfired~~ pressure vessel or boiler to 41189  
immediately cease the ~~unfired~~ pressure vessel's or boiler's 41190  
operation. The order shall be effective until the nonconformities 41191  
are eliminated, corrected, or otherwise remedied, or for a period 41192  
of seventy-two hours from the time of issuance, whichever occurs 41193  
first. During the seventy-two-hour period, the superintendent may 41194  
request that the prosecuting attorney or city attorney of Franklin 41195  
county or of the county in which the ~~unfired~~ pressure vessel or 41196  
boiler is located obtain an injunction restraining the operator or 41197  
owner of the ~~unfired~~ pressure vessel or boiler from continuing its 41198  
operation after the seventy-two-hour period expires until the 41199  
nonconformities are eliminated, corrected, or otherwise remedied. 41200

(E) Each boiler which has been inspected shall be assigned a 41201  
number by the superintendent, which number shall be stamped on a 41202  
nonferrous metal tag affixed to the boiler or its fittings by seal 41203  
or otherwise. No person except an inspector shall deface or remove 41204  
any such number or tag. 41205

(F) If the owner or user of any ~~unfired~~ pressure vessel or 41206  
boiler disagrees with the inspector as to the necessity for 41207  
shutting down ~~an unfired~~ a pressure vessel or boiler or for making 41208  
repairs or alterations in it, or taking any other measures for 41209  
safety that are requested by an inspector, the owner or user may 41210  
appeal from the decision of the inspector to the superintendent, 41211

who may, after such other inspection by a general inspector or 41212  
special inspector as the superintendent deems necessary, decide 41213  
the issue. 41214

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 41215  
nor an inspection or report by any inspector, shall relieve the 41216  
owner or user of ~~an unfired~~ a pressure vessel or boiler of the 41217  
duty of using due care in the inspection, operation, and repair of 41218  
the ~~unfired~~ pressure vessel or boiler or of any liability for 41219  
damages for failure to inspect, repair, or operate the ~~unfired~~ 41220  
pressure vessel or boiler safely. 41221

**Sec. 4104.18.** (A) The owner or user of a boiler required 41222  
under section 4104.12 of the Revised Code to be inspected upon 41223  
installation, and the owner or user of a boiler for which a 41224  
certificate of inspection has been issued which is replaced with 41225  
an appropriate certificate of operation, shall pay to the 41226  
superintendent of industrial compliance a fee in the amount of 41227  
~~thirty~~ forty-five dollars for boilers subject to annual 41228  
inspections under section 4104.11 of the Revised Code, ~~sixty~~ 41229  
ninety dollars for boilers subject to biennial inspection under 41230  
section 4104.13 of the Revised Code, ~~ninety one hundred~~ 41231  
thirty-five dollars for boilers subject to triennial inspection 41232  
under section 4104.11 of the Revised Code, or ~~one two~~ hundred 41233  
~~fifty~~ twenty-five dollars for boilers subject to quinquennial 41234  
inspection under section 4104.13 of the Revised Code. 41235

A renewal fee in the amount of ~~thirty~~ forty-five dollars 41236  
shall be paid to the treasurer of state before the renewal of any 41237  
certificate of operation. 41238

(B) The fee for complete inspection during construction by a 41239  
general inspector on boilers and ~~unfired~~ pressure vessels 41240  
manufactured within the state shall be thirty-five dollars per 41241  
hour. Boiler and ~~unfired~~ pressure vessel manufacturers other than 41242

those located in the state may secure inspection by a general 41243  
inspector on work during construction, upon application to the 41244  
superintendent, and upon payment of a fee of thirty-five dollars 41245  
per hour, plus the necessary traveling and hotel expenses incurred 41246  
by the inspector. 41247

(C) The application fee for applicants for steam engineer, 41248  
high pressure boiler operator, or low pressure boiler operator 41249  
licenses is fifty dollars. The fee for each original or renewal 41250  
steam engineer, high pressure boiler operator, or low pressure 41251  
boiler operator license is thirty-five dollars. 41252

(D) The director of commerce, subject to the approval of the 41253  
controlling board, may establish fees in excess of the fees 41254  
provided in divisions (A), (B), and (C) of this section, ~~provided~~ 41255  
~~that such fees do not exceed the amounts established in this~~ 41256  
~~section by more than fifty per cent.~~ Any moneys collected under 41257  
this section shall be paid into the state treasury to the credit 41258  
of the industrial compliance operating fund created in section 41259  
121.084 of the Revised Code. 41260

(E) Any person who fails to pay an invoiced renewal fee or an 41261  
invoiced inspection fee required for any inspection conducted by 41262  
the division of industrial compliance pursuant to this chapter 41263  
within forty-five days of the invoice date shall pay a late 41264  
payment fee equal to twenty-five per cent of the invoiced fee. 41265

(F) In addition to the fees assessed in divisions (A) and (B) 41266  
of this section, the board of building standards shall assess the 41267  
owner or user a fee of three dollars and twenty-five cents for 41268  
each certificate of operation or renewal thereof issued under 41269  
division (A) of this section and for each inspection conducted 41270  
under division (B) of this section. The board shall adopt rules, 41271  
in accordance with Chapter 119. of the Revised Code, specifying 41272  
the manner by which the superintendent shall collect and remit to 41273  
the board the fees assessed under this division and requiring that 41274

remittance of the fees be made at least quarterly. 41275

**Sec. 4104.19.** (A) Any person seeking a license to operate as 41276  
a steam engineer, high pressure boiler operator, or low pressure 41277  
boiler operator shall file a written application with the 41278  
superintendent of industrial compliance on a form prescribed by 41279  
the superintendent with the appropriate application fee as set 41280  
forth in section 4104.18 of the Revised Code. The application 41281  
shall contain information satisfactory to the superintendent to 41282  
demonstrate that the applicant meets the requirements of division 41283  
(B) of this section. The application shall be filed with the 41284  
superintendent not more than sixty days and not less than thirty 41285  
days before the license examination is offered. 41286

(B) To qualify to take the examination required to obtain a 41287  
steam engineer, high pressure boiler operator, or low pressure 41288  
boiler operator license, a person shall meet both of the following 41289  
requirements: 41290

(1) Be at least eighteen years of age; 41291

(2) Have one year of experience in the operation of steam 41292  
engines, high pressure boilers, or low pressure boilers as 41293  
applicable to the type of license being sought, or a combination 41294  
of experience and education for the type of license sought as 41295  
determined to be acceptable by the superintendent. 41296

(C) No applicant shall qualify to take an examination or to 41297  
renew a license if the applicant has violated this chapter or if 41298  
the applicant has obtained or renewed a license issued under this 41299  
chapter by fraud, misrepresentation, or deception. 41300

(D) The superintendent shall issue a license to each 41301  
applicant who receives a passing score on the examination, as 41302  
determined by the superintendent, for the license for which the 41303  
applicant applied. 41304

(E) The superintendent ~~shall~~ may select and contract with one 41305  
or more persons to do all of the following relative to the 41306  
examinations for a license to operate as a steam engineer, high 41307  
pressure boiler operator, or low pressure boiler operator: 41308

(1) Prepare, administer, score, and maintain the 41309  
confidentiality of the examination; 41310

(2) Maintain responsibility for all expenses required to 41311  
fulfill division (E)(1) of this section; 41312

(3) Charge each applicant a fee for administering the 41313  
examination, in an amount authorized by the superintendent; 41314

(4) Design the examination for each type of license to 41315  
determine an applicant's competence to operate the equipment for 41316  
which the applicant is seeking licensure. 41317

(F) Each license issued under this chapter expires one year 41318  
after the date of issue. Each person holding a valid, unexpired 41319  
license may renew the license, without reexamination, by applying 41320  
to the superintendent not more than ninety days before the 41321  
expiration of the license, and submitting with the application the 41322  
renewal fee established in section 4104.18 of the Revised Code. 41323  
Upon receipt of the renewal information and fee, the 41324  
superintendent shall issue the licensee a certificate of renewal. 41325

(G) The superintendent, in accordance with Chapter 119. of 41326  
the Revised Code, may suspend or revoke any license, or may refuse 41327  
to issue a license under this chapter upon finding that a licensee 41328  
or an applicant for a license has violated or is violating the 41329  
requirements of this chapter. 41330

**Sec. 4104.20.** No owner or operator of any boiler shall 41331  
operate the same in violation of sections 4104.11 to 4104.16, 41332  
inclusive, and 4104.18 of the Revised Code, or of any rule or 41333  
regulation adopted by the board of building standards, pursuant to 41334

section 4104.02 of the Revised Code, or without having a boiler 41335  
inspected and a certificate of operation issued therefor as 41336  
provided in such sections or hinder or prevent a general or 41337  
special inspector of boilers from entering any premises in or on 41338  
which a boiler is situated for the purpose of inspection. No owner 41339  
or operator of any ~~unfired~~ pressure vessel shall operate the same 41340  
in violation of section 4104.10 of the Revised Code, or of any 41341  
rule or regulation adopted by the board of building standards, 41342  
pursuant to section 4104.02 of the Revised Code. 41343

**Sec. 4104.41.** ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 41344  
4104.48 of the Revised Code: 41345

~~(1)~~(A) "Liquefied petroleum gas" means any material which is 41346  
composed predominantly of any of the following hydrocarbons, or 41347  
mixtures of the same: propane, propylene, normal butane, or 41348  
isobutane or butylenes. 41349

~~(2)~~(B) "Other gaseous piping systems" excludes natural gas 41350  
piping gas systems. 41351

~~(B)~~ ~~The director of commerce shall appoint general inspectors~~ 41352  
~~of power, refrigerating, hydraulic, heating, and liquefied~~ 41353  
~~petroleum gas piping systems. Such inspectors shall be appointed~~ 41354  
~~from holders of certificates of competency provided for in section~~ 41355  
~~4104.42 of the Revised Code.~~ 41356

~~Salaries shall be appropriated in the same manner as the~~ 41357  
~~salaries of other employees of state departments, and expenses of~~ 41358  
~~such general inspectors shall be provided for in the same manner~~ 41359  
~~as the expenses of other employees of state departments.~~ 41360

**Sec. 4104.42.** (A) Each manufacturer, contractor, owner, or 41361  
user of power, refrigerating, hydraulic, heating and liquefied 41362  
petroleum gas, oxygen, or other gaseous piping systems shall 41363  
conduct tests required under rules adopted by the board of 41364

building standards under division (A)(1) of section 4104.44 of the Revised Code and certify in writing on forms provided under section 4104.43 of the Revised Code by the superintendent of industrial compliance in the department of commerce that the welding and brazing procedures used in the construction of those power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems meet the standards established by the board under division (A)(1) of section 4104.44 of the Revised Code.

(B) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who causes welding or brazing to be performed in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems shall maintain at least one copy of the forms described in division (A) of this section and make that copy accessible to any individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code.

(C) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code shall examine the forms described in division (A) of this section to determine compliance with the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

(D) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code with reason to question the certification or ability of any welder or brazer shall report the concerns to the superintendent of the division of industrial compliance in the department of commerce. The superintendent shall investigate those concerns. If the superintendent finds facts that substantiate the

concerns of the individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code, the superintendent may require the welder or brazer in question to become recertified by a private vendor in the same manner by which five-year recertification is required under section 4104.46 of the Revised Code. The superintendent also may utilize the services of an independent testing laboratory to witness the welding or brazing performed on the project in question and to conduct tests on coupons to determine whether the coupons meet the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

**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 41428  
qualifications comply with the requirements of the rules adopted 41429  
by the board of building standards under division (A)(1) of 41430  
section 4104.44 of the Revised Code, the superintendent shall 41431  
approve the welding and brazing procedure specifications and 41432  
welder and brazer performance qualifications as indicated on the 41433  
forms and return one copy to the manufacturer, contractor, owner, 41434  
or user of power, refrigerating, hydraulic, heating and liquefied 41435  
petroleum gas, oxygen, or other gaseous piping systems who 41436  
submitted the forms. 41437

(3) If the superintendent finds that the welding and brazing 41438  
procedure specifications and welder and brazer performance 41439  
qualifications do not comply with the requirements of the rules 41440  
adopted by the board of building standards under division (A)(1) 41441  
of section 4104.44 of the Revised Code, the superintendent shall 41442  
indicate on the forms that the welding and brazing procedure 41443  
specifications and welder and brazer performance qualifications 41444  
are not approved and return one copy of the form to the 41445  
manufacturer, contractor, owner, or user of power, refrigerating, 41446  
hydraulic, heating and liquefied petroleum gas, oxygen, or other 41447  
gaseous piping systems who submitted the forms with an explanation 41448  
of why the welding and brazing procedure specifications and welder 41449  
and brazer performance qualifications were not approved. 41450

**Sec. 4104.44.** (A) The board of building standards, 41451  
established by section 3781.07 of the Revised Code, shall: 41452

(1) ~~Formulate~~ Adopt rules governing the design, plan review, 41453  
approval, construction, and installation of power, refrigerating, 41454  
hydraulic, heating, and liquefied petroleum gas, oxygen, and other 41455  
gaseous piping systems. ~~Such~~ The board of building standards may 41456  
include the rules for gaseous piping systems with the rules it 41457  
adopts for buildings pursuant to section 3781.10 of the Revised 41458

Code or with the rules it adopts for piping systems pursuant to 41459  
this section. The rules shall prescribe uniform minimum standards 41460  
necessary for the protection of the public health and safety and 41461  
shall include rules establishing the safe working pressure to be 41462  
carried by any such systems; a program for the certification of 41463  
the welding and brazing procedures proposed to be used on any such 41464  
system by the owner or operator of any welding or brazing business 41465  
and for quinquennial performance testing of welders and brazers 41466  
who work on any such system; and measures for the conservation of 41467  
energy. ~~Such~~ The rules shall be based upon and follow generally 41468  
accepted engineering standards, formulas, and practices 41469  
established and pertaining to such piping construction, 41470  
installation, and testing. The board may, for this purpose, adopt 41471  
existing published standards, as well as amendments thereto 41472  
subsequently published by the same authority. 41473

(2) Prescribe the tests, to ascertain the qualities of 41474  
materials and welding and brazing materials used in the 41475  
construction of power, refrigerating, hydraulic, heating, and 41476  
liquefied petroleum gas, oxygen, and other gaseous piping systems; 41477

(3) Make a standard form of certificate of inspection; 41478

~~(4) Prescribe the examinations for applicants for~~ 41479  
~~certificates of competency provided for in section 4104.42 of the~~ 41480  
~~Revised Code and~~ performance tests to determine the proficiency of 41481  
welders and brazers; 41482

(5) Certify municipal and county building departments to 41483  
inspect power, refrigerating, hydraulic, heating, and liquefied 41484  
petroleum gas, oxygen, and other gaseous piping systems and adopt 41485  
rules governing such certification; 41486

~~(6) Establish the fee to be charged for an inspection made by~~ 41487  
~~a general inspector and for the filing and auditing of special~~ 41488  
~~inspector reports, and collect all fees established in this~~ 41489

section. 41490

The fee for the quinquennial performance tests shall be 41491  
fifteen dollars and the fee for certification of welding and 41492  
brazing procedures mentioned in division (A) of this section shall 41493  
be sixty dollars, except that the board of building standards, 41494  
with the approval of the controlling board, may establish fees in 41495  
excess of these fees, provided that the fees do not exceed the 41496  
amounts of these fees by more than fifty per cent. The fee for 41497  
each welding and brazing instruction sheet and procedure 41498  
qualification record shall be fifteen dollars. Any moneys 41499  
collected under this section shall be paid into the state treasury 41500  
to the credit of the industrial compliance operating fund created 41501  
in section 121.084 of the Revised Code. 41502

~~(B) Piping is exempt from the requirements for submission of 41503  
applications and inspections and the necessity to obtain permits, 41504  
as required under this section and section 4104.45 of the Revised 41505  
Code, or under rules adopted pursuant to those sections, for 41506  
power, refrigerating, hydraulic, heating, and liquefied petroleum 41507  
gas, oxygen, and gaseous piping systems if the piping is used: 41508~~

~~(1) In air cooling systems in residential or commercial 41509  
buildings and if such systems do not exceed five tons (sixty 41510  
thousand British thermal units per hour) per system; or 41511~~

~~(2) In air heating systems in residential or commercial 41512  
buildings and if such systems do not exceed one hundred fifty 41513  
thousand British thermal units per hour per system. 41514~~

~~(C) The board of building standards may, by rule, exempt from 41515  
the rules adopted pursuant to division (A)(1) of this section any 41516  
pressure piping power, refrigerating, hydraulic, heating and 41517  
liquefied petroleum gas, oxygen, or other gaseous piping systems 41518  
which that pose no appreciable danger to the public health and 41519  
safety. 41520~~

**Sec. 4104.45.** (A) Except as otherwise provided in section 41521  
4104.44 of the Revised Code, new power, refrigerating, hydraulic, 41522  
heating, liquefied petroleum gas, oxygen, and other gaseous piping 41523  
systems shall be thoroughly inspected in accordance with the rules 41524  
of the board of building standards. Such ~~inspection~~ inspections 41525  
shall be performed by ~~one of the following:~~ 41526

~~(1) General inspectors of pressure piping systems;~~ 41527

~~(2) Special inspectors provided for in section 4104.43 of the 41528  
Revised Code;~~ 41529

~~(3) Local inspectors provided for in section 4104.43 of the 41530  
Revised Code.~~ 41531

~~(B) Owners or users of pressure piping systems required to be 41532  
inspected under this section shall pay to the division of 41533  
industrial compliance in the department of commerce a fee of one 41534  
hundred fifty dollars plus an additional fee determined as 41535  
follows:~~ 41536

~~(1) On or before June 30, 2000, two per cent of the actual 41537  
cost of the system for each inspection made by a general 41538  
inspector;~~ 41539

~~(2) On July 1, 2000, and through June 30, 2001, one and 41540  
eight tenths per cent of the actual cost of the system for each 41541  
inspection made by a general inspector;~~ 41542

~~(3) On and after July 1, 2001, one per cent of the actual 41543  
cost of the system for each inspection made by a general 41544  
inspector.~~ 41545

~~(C) The board of building standards, subject to the approval 41546  
of the controlling board, may establish a fee in excess of the fee 41547  
provided in division (B) of this section, provided that the fee 41548  
does not exceed the amount established in this section by more 41549  
than fifty per cent.~~ 41550

~~(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. 41583  
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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. 41588  
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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. 41594  
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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. 41599  
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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 41609  
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division of industrial compliance or any judgment or decree issued 41613  
by any court in connection with the enforcement of sections 41614  
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code. 41615

(B) Every day during which a person violates sections 4104.41 41616  
to ~~4104.46~~ 4104.48 of the Revised Code, fails to perform any duty 41617  
lawfully enjoined in connection with those sections, or fails to 41618  
comply with any order issued by the superintendent of the division 41619  
of industrial compliance or any judgment or decree issued by any 41620  
court in connection with the enforcement of sections 4104.41 to 41621  
~~4104.46~~ 4104.48 of the Revised Code constitutes a separate 41622  
offense. 41623

**Sec. 4105.17.** (A) The fee for each inspection, or attempted 41624  
inspection that, due to no fault of a general inspector or the 41625  
division of industrial compliance, is not successfully completed, 41626  
by a general inspector before the operation of a permanent new 41627  
elevator prior to the issuance of a certificate of operation, 41628  
before operation of an elevator being put back into service after 41629  
a repair, or as a result of the operation of section 4105.08 of 41630  
the Revised Code and is an elevator required to be inspected under 41631  
this chapter is twenty dollars plus ten dollars for each floor 41632  
where the elevator stops. The superintendent of industrial 41633  
compliance may assess an additional fee of one hundred twenty-five 41634  
dollars plus five dollars for each floor where an elevator stops 41635  
for the reinspection of an elevator when a previous attempt to 41636  
inspect that elevator has been unsuccessful through no fault of a 41637  
general inspector or the division of industrial compliance. 41638

(B) The fee for each inspection, or attempted inspection, 41639  
that due to no fault of the general inspector or the division of 41640  
industrial compliance, is not successfully completed by a general 41641  
inspector before operation of a permanent new escalator or moving 41642  
walk prior to the issuance of a certificate of operation, before 41643

operation of an escalator or moving walk being put back in service 41644  
after a repair, or as a result of the operation of section 4105.08 41645  
of the Revised Code is three hundred dollars. The superintendent 41646  
of the division of industrial compliance may assess an additional 41647  
fee of one hundred fifty dollars for the reinspection of an 41648  
escalator or moving walk when a previous attempt to inspect that 41649  
escalator or moving walk has been unsuccessful through no fault of 41650  
the general inspector or the division of industrial compliance. 41651

(C) The fee for issuing or renewing a certificate of 41652  
operation under section 4105.15 of the Revised Code for an 41653  
elevator that is inspected every six months in accordance with 41654  
division (A) of section 4105.10 of the Revised Code is ~~one~~ two 41655  
hundred ~~five~~ dollars plus ten dollars for each floor where the 41656  
elevator stops, except where the elevator has been inspected by a 41657  
special inspector in accordance with section 4105.07 of the 41658  
Revised Code. 41659

(D) The fee for issuing or renewing a certificate of 41660  
operation under section 4105.05 of the Revised Code for an 41661  
elevator that is inspected every twelve months in accordance with 41662  
division (A) of section 4105.10 of the Revised Code is fifty-five 41663  
dollars plus ten dollars for each floor where the elevator stops, 41664  
except where the elevator has been inspected by a special 41665  
inspector in accordance with section 4105.07 of the Revised Code. 41666

(E) The fee for issuing or renewing a certificate of 41667  
operation under section 4105.15 of the Revised Code for an 41668  
escalator or moving walk is three hundred dollars, except where 41669  
the escalator or moving walk has been inspected by a special 41670  
inspector in accordance section 4105.07 of the Revised Code. 41671

(F) All other fees to be charged for any examination given or 41672  
other service performed by the division of industrial compliance 41673  
pursuant to this chapter shall be prescribed by the director of 41674  
commerce. The fees shall be reasonably related to the costs of 41675

such examination or other service. 41676

(G) The director of commerce, subject to the approval of the 41677  
controlling board, may establish fees in excess of the fees 41678  
provided in divisions (A) ~~and~~, (B), (C), (D), and (E) of this 41679  
section, ~~provided that the fees do not exceed the amounts~~ 41680  
~~established in divisions (A) and (B) of this section by more than~~ 41681  
~~fifty per cent.~~ Any moneys collected under this section shall be 41682  
paid into the state treasury to the credit of the industrial 41683  
compliance operating fund created in section 121.084 of the 41684  
Revised Code. 41685

(H) Any person who fails to pay an inspection fee required 41686  
for any inspection conducted by the division pursuant to this 41687  
chapter within forty-five days after the inspection is conducted 41688  
shall pay a late payment fee equal to twenty-five per cent of the 41689  
inspection fee. 41690

(I) In addition to the fees assessed in divisions (A), (B), 41691  
(C), ~~and~~ (D), and (E) of this section, the board of building 41692  
standards shall assess a fee of three dollars and twenty-five 41693  
cents for each certificate of operation or renewal thereof issued 41694  
under ~~division~~ divisions (A), (B), (C), (D), or (E) of this 41695  
section and for each permit issued under section 4105.16 of the 41696  
Revised Code. The board shall adopt rules, in accordance with 41697  
Chapter 119. of the Revised Code, specifying the manner by which 41698  
the superintendent of industrial compliance shall collect and 41699  
remit to the board the fees assessed under this division and 41700  
requiring that remittance of the fees be made at least quarterly. 41701

(J) For purposes of this section: 41702

(1) "Escalator" means a power driven, inclined, continuous 41703  
stairway used for raising or lowering passengers. 41704

(2) "Moving walk" means a passenger carrying device on which 41705  
passengers stand or walk, with a passenger carrying surface that 41706

is uninterrupted and remains parallel to its direction of motion. 41707

**Sec. 4112.15.** There is hereby created in the state treasury 41708  
the civil rights commission general reimbursement fund, which 41709  
shall be used to pay operating costs of the commission. All 41710  
amounts received by the commission, and all amounts awarded by a 41711  
court to the commission, for attorney's fees, court costs, expert 41712  
witness fees, and other litigation expenses shall be paid into the 41713  
state treasury to the credit of the fund. All ~~money paid to~~ 41714  
amounts received by the commission for copies of commission 41715  
documents and for other goods and services furnished by the 41716  
commission shall be ~~credited~~ paid into the state treasury to the 41717  
credit of the fund. 41718

**Sec. 4115.10.** (A) No person, firm, corporation, or public 41719  
authority that constructs a public improvement with its own 41720  
forces, the total overall project cost of which is fairly 41721  
estimated to be more than the amounts set forth in division (B)(1) 41722  
or (2) of section 4115.03 of the Revised Code, adjusted biennially 41723  
by the director of commerce pursuant to section 4115.034 of the 41724  
Revised Code, shall violate the wage provisions of sections 41725  
4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 41726  
require any employee to work for less than the rate of wages so 41727  
fixed, or violate the provisions of section 4115.07 of the Revised 41728  
Code. Any employee upon any public improvement, except an employee 41729  
to whom or on behalf of whom restitution is made pursuant to 41730  
division (C) of section 4115.13 of the Revised Code, who is paid 41731  
less than the fixed rate of wages applicable thereto may recover 41732  
from such person, firm, corporation, or public authority that 41733  
constructs a public improvement with its own forces the difference 41734  
between the fixed rate of wages and the amount paid to the 41735  
employee and in addition thereto a sum equal to twenty-five per 41736  
cent of that difference. The person, firm, corporation, or public 41737

authority who fails to pay the rate of wages so fixed also shall 41738  
pay a penalty to the director of seventy-five per cent of the 41739  
difference between the fixed rate of wages and the amount paid to 41740  
the employees on the public improvement. The director shall 41741  
deposit all moneys received from penalties paid to the director 41742  
pursuant to this section into the penalty enforcement fund, which 41743  
is hereby created in the state treasury. The director shall use 41744  
the fund for the enforcement of sections 4115.03 to 4115.16 of the 41745  
Revised Code. The employee may file suit for recovery within ~~sixty~~ 41746  
ninety days of the director's determination of a violation of 41747  
sections 4115.03 to 4115.16 of the Revised Code or is barred from 41748  
further action under this division. Where the employee prevails in 41749  
a suit, the employer shall pay the costs and reasonable attorney's 41750  
fees allowed by the court. 41751

(B) Any employee upon any public improvement who is paid less 41752  
than the prevailing rate of wages applicable thereto may file a 41753  
complaint in writing with the director upon a form furnished by 41754  
the director. ~~At the written request~~ The complaint shall include 41755  
documented evidence to demonstrate that the employee was paid less 41756  
than the prevailing wage in violation of this chapter. Upon 41757  
receipt of a properly completed written complaint of any employee 41758  
paid less than the prevailing rate of wages applicable, the 41759  
director shall take an assignment of a claim in trust for the 41760  
assigning employee and bring any legal action necessary to collect 41761  
the claim. The employer shall pay the costs and reasonable 41762  
attorney's fees allowed by the court if the employer is found in 41763  
violation of sections 4115.03 to 4115.16 of the Revised Code. 41764

(C) If after investigation pursuant to section 4115.13 of the 41765  
Revised Code, the director determines there is a violation of 41766  
sections 4115.03 to 4115.16 of the Revised Code and a period of 41767  
sixty days has elapsed from the date of the determination, and if: 41768

(1) No employee has brought suit pursuant to division (A) of 41769

this section; 41770

(2) No employee has requested that the director take an 41771  
assignment of a wage claim pursuant to division (B) of this 41772  
section; 41773

The director shall bring any legal action necessary to 41774  
collect any amounts owed to employees and the director. The 41775  
director shall pay over to the affected employees the amounts 41776  
collected to which the affected employees are entitled under 41777  
division (A) of this section. In any action in which the director 41778  
prevails, the employer shall pay the costs and reasonable 41779  
attorney's fees allowed by the court. 41780

(D) Where persons are employed and their rate of wages has 41781  
been determined as provided in section 4115.04 of the Revised 41782  
Code, no person, either for self or any other person, shall 41783  
request, demand, or receive, either before or after the person is 41784  
engaged, that the person so engaged pay back, return, donate, 41785  
contribute, or give any part or all of the person's wages, salary, 41786  
or thing of value, to any person, upon the statement, 41787  
representation, or understanding that failure to comply with such 41788  
request or demand will prevent the procuring or retaining of 41789  
employment, and no person shall, directly or indirectly, aid, 41790  
request, or authorize any other person to violate this section. 41791  
This division does not apply to any agent or representative of a 41792  
duly constituted labor organization acting in the collection of 41793  
dues or assessments of such organization. 41794

(E) The director shall enforce sections 4115.03 to 4115.16 of 41795  
the Revised Code. 41796

(F) For the purpose of supplementing existing resources and 41797  
to assist in enforcing division (E) of this section, the director 41798  
may contract with a person registered as a public accountant under 41799  
Chapter 4701. of the Revised Code to conduct an audit of a person, 41800

firm, corporation, or public authority. 41801

Sec. 4115.21. A person who files a complaint with the 41802  
director of commerce alleging a violation of sections 4115.03 to 41803  
4115.16 of the Revised Code shall file the complaint within two 41804  
years after the completion of the public improvement upon which 41805  
the violation is alleged to have occurred or be barred from 41806  
further administrative action under this chapter. 41807

**Sec. 4117.02.** (A) There is hereby created the state 41808  
employment relations board, consisting of three members to be 41809  
appointed by the governor with the advice and consent of the 41810  
senate. Members shall be knowledgeable about labor relations or 41811  
personnel practices. No more than two of the three members shall 41812  
belong to the same political party. A member of the board during 41813  
the member's period of service shall hold no other public office 41814  
or public or private employment and shall allow no other 41815  
responsibilities to interfere or conflict with the member's duties 41816  
as a full-time board member. Of the initial appointments made to 41817  
the board, one shall be for a term ending October 6, 1984, one 41818  
shall be for a term ending October 6, 1985, and one shall be for a 41819  
term ending October 6, 1986. Thereafter, terms of office shall be 41820  
for six years, each term ending on the same day of the same month 41821  
of the year as did the term that it succeeds. Each member shall 41822  
hold office from the date of the member's appointment until the 41823  
end of the term for which the member is appointed. Any member 41824  
appointed to fill a vacancy occurring prior to the expiration of 41825  
the term for which the member's predecessor was appointed shall 41826  
hold office for the remainder of the term. Any member shall 41827  
continue in office subsequent to the expiration of the member's 41828  
term until the member's successor takes office or until a period 41829  
of sixty days has elapsed, whichever occurs first. The 41830

~~The governor shall designate one member to serve as~~ 41831

~~chairperson of the board.~~ The governor may remove any member of 41832  
the board, upon notice and public hearing, for neglect of duty or 41833  
malfeasance in office, but for no other cause. 41834

(B) ~~A~~ (1) The governor shall designate one member of the 41835  
board to serve as chairperson of the board. The chairperson is the 41836  
head of the board and its chief executive officer. 41837

(2) The chairperson shall exercise all administrative powers 41838  
and duties conferred upon the board under this chapter and shall 41839  
do all of the following: 41840

(a) Except as provided in division (F)(2) of this section, 41841  
employ, promote, supervise, and remove all employees of the board, 41842  
and establish, change, or abolish positions and assign or reassign 41843  
the duties of those employees as the chairperson determines 41844  
necessary to achieve the most efficient performance of the board's 41845  
duties under this chapter; 41846

(b) Maintain the office of the board in Columbus and manage 41847  
the office's daily operations, including securing facilities, 41848  
equipment, and supplies necessary to house the board, employees of 41849  
the board, and files and records under the board's control; 41850

(c) Prepare and submit to the office of budget and management 41851  
a budget for each biennium according to section 107.03 of the 41852  
Revised Code, and include in the budget the costs of the board and 41853  
its staff and the board's costs in discharging any duty imposed by 41854  
law upon the board, the chairperson, or any of the board's 41855  
employees or agents. 41856

(C) The vacancy on the board does not impair the right of the 41857  
remaining members to exercise all the powers of the board, and two 41858  
members of the board, at all times, constitute a quorum. The board 41859  
shall have an official seal of which courts shall take judicial 41860  
notice. 41861

~~(C)~~(D) The board shall make an annual report in writing to 41862

the governor and to the general assembly, stating in detail the 41863  
work it has done. 41864

~~(D)~~(E) Compensation of the chairperson and members shall be 41865  
in accordance with division (J) of section 124.15 of the Revised 41866  
Code. The chairperson and the members are eligible for 41867  
reappointment. In addition to such compensation, all members shall 41868  
be reimbursed for their necessary expenses incurred in the 41869  
performance of their work as members. 41870

~~(E)~~(F)(1) The chairperson, after consulting with the other 41871  
board members and receiving the consent of at least one other 41872  
board member, shall appoint an executive director ~~and~~. The 41873  
chairperson also shall appoint attorneys, and attorney-trial 41874  
examiners, ~~mediators, arbitrators, members of fact finding panels,~~ 41875  
~~directors for local areas, and other employees as it finds~~ 41876  
~~necessary for the proper performance of its duties and may~~ 41877  
~~prescribe their duties.~~ The 41878

(2) The board shall appoint mediators, arbitrators, members 41879  
of fact-finding panels, and directors for local areas, and shall 41880  
prescribe their job duties. 41881

(G)(1) The executive director shall serve at the pleasure of 41882  
the chairperson. The executive director, under the direction of 41883  
the chairperson, shall do all of the following: 41884

(a) Act as chief administrative officer for the board; 41885

(b) Ensure that all employees of the board comply with the 41886  
rules of the board; 41887

(c) Do all things necessary for the efficient and effective 41888  
implementation of the duties of the board. 41889

(2) The duties of the executive director described in 41890  
division (G)(1) of this section do not relieve the chairperson 41891  
from final responsibility for the proper performance of the duties 41892

described in that division. 41893

(H) The attorney general shall be the legal adviser of the 41894  
board and shall appear for and represent the board and its agents 41895  
in all legal proceedings. The board may utilize regional, local, 41896  
or other agencies, and utilize voluntary and uncompensated 41897  
services as needed. The board may contract with the federal 41898  
mediation and conciliation service for the assistance of 41899  
mediators, arbitrators, and other personnel the service makes 41900  
available. The board and the chairperson, respectively, shall 41901  
appoint all employees on the basis of training, practical 41902  
experience, education, and character, notwithstanding the 41903  
requirements established by section 119.09 of the Revised Code. 41904  
The board shall give special regard to the practical training and 41905  
experience that employees have for the particular position 41906  
involved. All full-time employees of the board excepting the 41907  
executive director, the head of the bureau of mediation, and the 41908  
personal secretaries and assistants of the board members are in 41909  
the classified service. All employees of the board shall be paid 41910  
in accordance with Chapter 124. of the Revised Code. 41911

~~(F)~~(I) The board shall select and assign examiners and other 41912  
agents whose functions are to conduct hearings with due regard to 41913  
their impartiality, judicial temperament, and knowledge. If in any 41914  
proceeding under this chapter, any party prior to five days before 41915  
the hearing thereto files with the board a sworn statement 41916  
charging that the examiner or other agent designated to conduct 41917  
the hearing is biased or partial in the proceeding, the board may 41918  
disqualify the person and designate another examiner or agent to 41919  
conduct the proceeding. At least ten days before any hearing, the 41920  
board shall notify all parties to a proceeding of the name of the 41921  
examiner or agent designated to conduct the hearing. 41922

~~(G)~~(J) The principal office of the board is in Columbus, but 41923  
it may meet and exercise any or all of its powers at any other 41924

place within the state. The board may, by one or more of its 41925  
employees, or any agents or agencies it designates, conduct in any 41926  
part of this state any proceeding, hearing, investigation, 41927  
inquiry, or election necessary to the performance of its 41928  
functions; provided, that no person so designated may later sit in 41929  
determination of an appeal of the decision of that cause or 41930  
matter. 41931

~~(H)~~(K) In addition to the powers and functions provided in 41932  
other sections of this chapter, the board shall do all of the 41933  
following: 41934

(1) Create a bureau of mediation within the state employment 41935  
relations board, to perform the functions provided in section 41936  
4117.14 of the Revised Code. This bureau shall also establish, 41937  
after consulting representatives of employee organizations and 41938  
public employers, panels of qualified persons to be available to 41939  
serve as members of fact-finding panels and arbitrators. 41940

(2) Conduct studies of problems involved in representation 41941  
and negotiation and make recommendations for legislation; 41942

(3) Hold hearings pursuant to this chapter and, for the 41943  
purpose of the hearings and inquiries, administer oaths and 41944  
affirmations, examine witnesses and documents, take testimony and 41945  
receive evidence, compel the attendance of witnesses and the 41946  
production of documents by the issuance of subpoenas, and delegate 41947  
these powers to any members of the board or any attorney-trial 41948  
examiner appointed by the board for the performance of its 41949  
functions; 41950

(4) Train representatives of employee organizations and 41951  
public employers in the rules and techniques of collective 41952  
bargaining procedures; 41953

(5) Make studies and analyses of, and act as a clearinghouse 41954  
of information relating to, conditions of employment of public 41955

employees throughout the state and request assistance, services, 41956  
and data from any public employee organization, public employer, 41957  
or governmental unit. Public employee organizations, public 41958  
employers, and governmental units shall provide such assistance, 41959  
services, and data as will enable the board to carry out its 41960  
functions and powers. 41961

(6) Make available to employee organizations, public 41962  
employers, mediators, fact-finding panels, arbitrators, and joint 41963  
study committees statistical data relating to wages, benefits, and 41964  
employment practices in public and private employment applicable 41965  
to various localities and occupations to assist them to resolve 41966  
issues in negotiations; 41967

(7) Notwithstanding section 119.13 of the Revised Code, 41968  
establish standards of persons who practice before it; 41969

(8) Adopt, amend, and rescind rules and procedures and 41970  
exercise other powers appropriate to carry out this chapter. 41971  
Before the adoption, amendment, or rescission of rules and 41972  
procedures under this section, the board shall do all of the 41973  
following: 41974

(a) Maintain a list of interested public employers and 41975  
employee organizations and mail notice to such groups of any 41976  
proposed rule or procedure, amendment thereto, or rescission 41977  
thereof at least thirty days before any public hearing thereon; 41978

(b) Mail a copy of each proposed rule or procedure, amendment 41979  
thereto, or rescission thereof to any person who requests a copy 41980  
within five days after receipt of the request therefor; 41981

(c) Consult with appropriate statewide organizations 41982  
representing public employers or employees who would be affected 41983  
by the proposed rule or procedure. 41984

Although the board is expected to discharge these duties 41985  
diligently, failure to mail any notice or copy, or to so consult 41986

with any person, is not jurisdictional and shall not be construed 41987  
to invalidate any proceeding or action of the board. 41988

~~(I)~~(L) In case of neglect or refusal to obey a subpoena 41989  
issued to any person, the court of common pleas of the county in 41990  
which the investigation or the public hearing occurs, upon 41991  
application by the board, may issue an order requiring the person 41992  
to appear before the board and give testimony about the matter 41993  
under investigation. The court may punish a failure to obey the 41994  
order as contempt. 41995

~~(J)~~(M) Any subpoena, notice of hearing, or other process or 41996  
notice of the board issued under this section may be served 41997  
personally, by certified mail, or by leaving a copy at the 41998  
principal office or personal residence of the respondent required 41999  
to be served. A return, made and verified by the individual making 42000  
the service and setting forth the manner of service, is proof of 42001  
service, and a return post office receipt, when certified mail is 42002  
used, is proof of service. All process in any court to which 42003  
application is made under this chapter may be served in the county 42004  
wherein the persons required to be served reside or are found. 42005

~~(K)~~(N) All expenses of the board, including all necessary 42006  
traveling and subsistence expenses incurred by the members or 42007  
employees of the board under its orders, shall be paid pursuant to 42008  
itemized vouchers approved by the chairperson of the board, the 42009  
executive director, or both, or such other person as the ~~board~~ 42010  
chairperson designates for that purpose. 42011

~~(L)~~(O) Whenever the board determines that a substantial 42012  
controversy exists with respect to the application or 42013  
interpretation of this chapter and the matter is of public or 42014  
great general interest, the board shall certify its final order 42015  
directly to the court of appeals having jurisdiction over the area 42016  
in which the principal office of the public employer directly 42017  
affected by the application or interpretation is located. The 42018

chairperson shall file with the clerk of the court a certified 42019  
copy of the transcript of the proceedings before the board 42020  
pertaining to the final order. If upon hearing and consideration 42021  
the court decides that the final order of the board is unlawful or 42022  
is not supported by substantial evidence on the record as a whole, 42023  
the court shall reverse and vacate the final order or modify it 42024  
and enter final judgment in accordance with the modification; 42025  
otherwise, the court shall affirm the final order. The notice of 42026  
the final order of the board to the interested parties shall 42027  
contain a certification by the chairperson of the board that the 42028  
final order is of public or great general interest and that a 42029  
certified transcript of the record of the proceedings before the 42030  
board had been filed with the clerk of the court as an appeal to 42031  
the court. For the purposes of this division, the board has 42032  
standing to bring its final order properly before the court of 42033  
appeals. 42034

~~(M)~~(P) Except as otherwise specifically provided in this 42035  
section, the board is subject to Chapter 119. of the Revised Code, 42036  
including the procedure for submission of proposed rules to the 42037  
general assembly for legislative review under division (H) of 42038  
section 119.03 of the Revised Code. 42039

**Sec. 4117.14.** (A) The procedures contained in this section 42040  
govern the settlement of disputes between an exclusive 42041  
representative and a public employer concerning the termination or 42042  
modification of an existing collective bargaining agreement or 42043  
negotiation of a successor agreement, or the negotiation of an 42044  
initial collective bargaining agreement. 42045

(B)(1) In those cases where there exists a collective 42046  
bargaining agreement, any public employer or exclusive 42047  
representative desiring to terminate, modify, or negotiate a 42048  
successor collective bargaining agreement shall: 42049

(a) Serve written notice upon the other party of the proposed 42050  
termination, modification, or successor agreement. The party must 42051  
serve the notice not less than sixty days prior to the expiration 42052  
date of the existing agreement or, in the event the existing 42053  
collective bargaining agreement does not contain an expiration 42054  
date, not less than sixty days prior to the time it is proposed to 42055  
make the termination or modifications or to make effective a 42056  
successor agreement. 42057

(b) Offer to bargain collectively with the other party for 42058  
the purpose of modifying or terminating any existing agreement or 42059  
negotiating a successor agreement; 42060

(c) Notify the state employment relations board of the offer 42061  
by serving upon the board a copy of the written notice to the 42062  
other party and a copy of the existing collective bargaining 42063  
agreement. 42064

(2) In the case of initial negotiations between a public 42065  
employer and an exclusive representative, where a collective 42066  
bargaining agreement has not been in effect between the parties, 42067  
any party may serve notice upon the board and the other party 42068  
setting forth the names and addresses of the parties and offering 42069  
to meet, for a period of ninety days, with the other party for the 42070  
purpose of negotiating a collective bargaining agreement. 42071

If the settlement procedures specified in divisions (B), (C), 42072  
and (D) of this section govern the parties, where those procedures 42073  
refer to the expiration of a collective bargaining agreement, it 42074  
means the expiration of the sixty-day period to negotiate a 42075  
collective bargaining agreement referred to in this subdivision, 42076  
or in the case of initial negotiations, it means the ninety day 42077  
period referred to in this subdivision. 42078

(3) The parties shall continue in full force and effect all 42079  
the terms and conditions of any existing collective bargaining 42080

agreement, without resort to strike or lock-out, for a period of 42081  
sixty days after the party gives notice or until the expiration 42082  
date of the collective bargaining agreement, whichever occurs 42083  
later, or for a period of ninety days where applicable. 42084

(4) Upon receipt of the notice, the parties shall enter into 42085  
collective bargaining. 42086

(C) In the event the parties are unable to reach an 42087  
agreement, they may submit, at any time prior to forty-five days 42088  
before the expiration date of the collective bargaining agreement, 42089  
the issues in dispute to any mutually agreed upon dispute 42090  
settlement procedure which supersedes the procedures contained in 42091  
this section. 42092

(1) The procedures may include: 42093

(a) Conventional arbitration of all unsettled issues; 42094

(b) Arbitration confined to a choice between the last offer 42095  
of each party to the agreement as a single package; 42096

(c) Arbitration confined to a choice of the last offer of 42097  
each party to the agreement on each issue submitted; 42098

(d) The procedures described in division (C)(1)(a), (b), or 42099  
(c) of this section and including among the choices for the 42100  
arbitrator, the recommendations of the fact finder, if there are 42101  
recommendations, either as a single package or on each issue 42102  
submitted; 42103

(e) Settlement by a citizens' conciliation council composed 42104  
of three residents within the jurisdiction of the public employer. 42105  
The public employer shall select one member and the exclusive 42106  
representative shall select one member. The two members selected 42107  
shall select the third member who shall chair the council. If the 42108  
two members cannot agree upon a third member within five days 42109  
after their appointments, the board shall appoint the third 42110

member. Once appointed, the council shall make a final settlement 42111  
of the issues submitted to it pursuant to division (G) of this 42112  
section. 42113

(f) Any other dispute settlement procedure mutually agreed to 42114  
by the parties. 42115

(2) If, fifty days before the expiration date of the 42116  
collective bargaining agreement, the parties are unable to reach 42117  
an agreement, any party may request the state employment relations 42118  
board to intervene. The request shall set forth the names and 42119  
addresses of the parties, the issues involved, and, if applicable, 42120  
the expiration date of any agreement. 42121

The board shall intervene and investigate the dispute to 42122  
determine whether the parties have engaged in collective 42123  
bargaining. 42124

If an impasse exists or forty-five days before the expiration 42125  
date of the collective bargaining agreement if one exists, the 42126  
board shall appoint a mediator to assist the parties in the 42127  
collective bargaining process. 42128

(3) ~~If the mediator after assisting the parties advises the~~ 42129  
~~board that the parties have reached an impasse, or not later than~~ 42130  
~~thirty one days prior to the expiration date of the agreement~~ Any 42131  
time after the appointment of a mediator, either party may request 42132  
the appointment of a fact-finding panel. Within fifteen days after 42133  
receipt of a request for a fact-finding panel, the board shall 42134  
appoint ~~within one day~~ a fact-finding panel of not more than three 42135  
members who have been selected by the parties in accordance with 42136  
rules established by the board, from a list of qualified persons 42137  
maintained by the board. 42138

(a) The fact-finding panel shall, in accordance with rules 42139  
and procedures established by the board that include the 42140  
regulation of costs and expenses of fact-finding, gather facts and 42141

make recommendations for the resolution of the matter. The board 42142  
shall by its rules require each party to specify in writing the 42143  
unresolved issues and its position on each issue to the 42144  
fact-finding panel. The fact-finding panel shall make final 42145  
recommendations as to all the unresolved issues. 42146

(b) The board may continue mediation, order the parties to 42147  
engage in collective bargaining until the expiration date of the 42148  
agreement, or both. 42149

(4) The following guidelines apply to fact-finding: 42150

(a) The fact-finding panel may establish times and place of 42151  
hearings which shall be, where feasible, in the jurisdiction of 42152  
the state. 42153

(b) The fact-finding panel shall conduct the hearing pursuant 42154  
to rules established by the board. 42155

(c) Upon request of the fact-finding panel, the board shall 42156  
issue subpoenas for hearings conducted by the panel. 42157

(d) The fact-finding panel may administer oaths. 42158

(e) The board shall prescribe guidelines for the fact-finding 42159  
panel to follow in making findings. In making its recommendations, 42160  
the fact-finding panel shall take into consideration the factors 42161  
listed in divisions (G)(7)(a) to (f) of this section. 42162

(f) The fact-finding panel may attempt mediation at any time 42163  
during the fact-finding process. From the time of appointment 42164  
until the fact-finding panel makes a final recommendation, it 42165  
shall not discuss the recommendations for settlement of the 42166  
dispute with parties other than the direct parties to the dispute. 42167

(5) The fact-finding panel, acting by a majority of its 42168  
members, shall transmit its findings of fact and recommendations 42169  
on the unresolved issues to the public employer and employee 42170  
organization involved and to the board no later than fourteen days 42171

after the appointment of the fact-finding panel, unless the 42172  
parties mutually agree to an extension. The ~~state parties~~ shall 42173  
~~pay one half share~~ the cost of the fact-finding panel. ~~The parties~~ 42174  
~~each shall pay one half of the remaining costs in a manner agreed~~ 42175  
~~to by the parties.~~ 42176

(6)(a) Not later than seven days after the findings and 42177  
recommendations are sent, the legislative body, by a three-fifths 42178  
vote of its total membership, and in the case of the public 42179  
employee organization, the membership, by a three-fifths vote of 42180  
the total membership, may reject the recommendations; if neither 42181  
rejects the recommendations, the recommendations shall be deemed 42182  
agreed upon as the final resolution of the issues submitted and a 42183  
collective bargaining agreement shall be executed between the 42184  
parties, including the fact-finding panel's recommendations, 42185  
except as otherwise modified by the parties by mutual agreement. 42186  
If either the legislative body or the public employee organization 42187  
rejects the recommendations, the board shall publicize the 42188  
findings of fact and recommendations of the fact-finding panel. 42189  
The board shall adopt rules governing the procedures and methods 42190  
for public employees to vote on the recommendations of the 42191  
fact-finding panel. 42192

(b) As used in division (C)(6)(a) of this section, 42193  
"legislative body" means the controlling board when the state or 42194  
any of its agencies, authorities, commissions, boards, or other 42195  
branch of public employment is party to the fact-finding process. 42196

(D) If the parties are unable to reach agreement within seven 42197  
days after the publication of findings and recommendations from 42198  
the fact-finding panel or the collective bargaining agreement, if 42199  
one exists, has expired, then the: 42200

(1) Public employees, who are members of a police or fire 42201  
department, members of the state highway patrol, deputy sheriffs, 42202  
dispatchers employed by a police, fire or sheriff's department or 42203

the state highway patrol or civilian dispatchers employed by a 42204  
public employer other than a police, fire, or sheriff's department 42205  
to dispatch police, fire, sheriff's department, or emergency 42206  
medical or rescue personnel and units, an exclusive nurse's unit, 42207  
employees of the state school for the deaf or the state school for 42208  
the blind, employees of any public employee retirement system, 42209  
corrections officers, guards at penal or mental institutions, 42210  
special police officers appointed in accordance with sections 42211  
5119.14 and 5123.13 of the Revised Code, psychiatric attendants 42212  
employed at mental health forensic facilities, or youth leaders 42213  
employed at juvenile correctional facilities, shall submit the 42214  
matter to a final offer settlement procedure pursuant to a board 42215  
order issued forthwith to the parties to settle by a conciliator 42216  
selected by the parties. The parties shall request from the board 42217  
a list of five qualified conciliators and the parties shall select 42218  
a single conciliator from the list by alternate striking of names. 42219  
If the parties cannot agree upon a conciliator within five days 42220  
after the board order, the board shall on the sixth day after its 42221  
order appoint a conciliator from a list of qualified persons 42222  
maintained by the board or shall request a list of qualified 42223  
conciliators from the American arbitration association and appoint 42224  
therefrom. 42225

(2) Public employees other than those listed in division 42226  
(D)(1) of this section have the right to strike under Chapter 42227  
4117. of the Revised Code provided that the employee organization 42228  
representing the employees has given a ten-day prior written 42229  
notice of an intent to strike to the public employer and to the 42230  
board, and further provided that the strike is for full, 42231  
consecutive work days and the beginning date of the strike is at 42232  
least ten work days after the ending date of the most recent prior 42233  
strike involving the same bargaining unit; however, the board, at 42234  
its discretion, may attempt mediation at any time. 42235

(E) Nothing in this section shall be construed to prohibit 42236  
the parties, at any time, from voluntarily agreeing to submit any 42237  
or all of the issues in dispute to any other alternative dispute 42238  
settlement procedure. An agreement or statutory requirement to 42239  
arbitrate or to settle a dispute pursuant to a final offer 42240  
settlement procedure and the award issued in accordance with the 42241  
agreement or statutory requirement is enforceable in the same 42242  
manner as specified in division (B) of section 4117.09 of the 42243  
Revised Code. 42244

(F) Nothing in this section shall be construed to prohibit a 42245  
party from seeking enforcement of a collective bargaining 42246  
agreement or a conciliator's award as specified in division (B) of 42247  
section 4117.09 of the Revised Code. 42248

(G) The following guidelines apply to final offer settlement 42249  
proceedings under division (D)(1) of this section: 42250

(1) The parties shall submit to final offer settlement those 42251  
issues that are subject to collective bargaining as provided by 42252  
section 4117.08 of the Revised Code and upon which the parties 42253  
have not reached agreement and other matters mutually agreed to by 42254  
the public employer and the exclusive representative; except that 42255  
the conciliator may attempt mediation at any time. 42256

(2) The conciliator shall hold a hearing within thirty days 42257  
of the board's order to submit to a final offer settlement 42258  
procedure, or as soon thereafter as is practicable. 42259

(3) The conciliator shall conduct the hearing pursuant to 42260  
rules developed by the board. The conciliator shall establish the 42261  
hearing time and place, but it shall be, where feasible, within 42262  
the jurisdiction of the state. Not later than five calendar days 42263  
before the hearing, each of the parties shall submit to the 42264  
conciliator, to the opposing party, and to the board, a written 42265  
report summarizing the unresolved issues, the party's final offer 42266

as to the issues, and the rationale for that position. 42267

(4) Upon the request by the conciliator, the board shall 42268  
issue subpoenas for the hearing. 42269

(5) The conciliator may administer oaths. 42270

(6) The conciliator shall hear testimony from the parties and 42271  
provide for a written record to be made of all statements at the 42272  
hearing. The board shall submit for inclusion in the record and 42273  
for consideration by the conciliator the written report and 42274  
recommendation of the fact-finders. 42275

(7) After hearing, the conciliator shall resolve the dispute 42276  
between the parties by selecting, on an issue-by-issue basis, from 42277  
between each of the party's final settlement offers, taking into 42278  
consideration the following: 42279

(a) Past collectively bargained agreements, if any, between 42280  
the parties; 42281

(b) Comparison of the issues submitted to final offer 42282  
settlement relative to the employees in the bargaining unit 42283  
involved with those issues related to other public and private 42284  
employees doing comparable work, giving consideration to factors 42285  
peculiar to the area and classification involved; 42286

(c) The interests and welfare of the public, the ability of 42287  
the public employer to finance and administer the issues proposed, 42288  
and the effect of the adjustments on the normal standard of public 42289  
service; 42290

(d) The lawful authority of the public employer; 42291

(e) The stipulations of the parties; 42292

(f) Such other factors, not confined to those listed in this 42293  
section, which are normally or traditionally taken into 42294  
consideration in the determination of the issues submitted to 42295  
final offer settlement through voluntary collective bargaining, 42296

mediation, fact-finding, or other impasse resolution procedures in 42297  
the public service or in private employment. 42298

(8) Final offer settlement awards made under Chapter 4117. of 42299  
the Revised Code are subject to Chapter 2711. of the Revised Code. 42300

(9) If more than one conciliator is used, the determination 42301  
must be by majority vote. 42302

(10) The conciliator shall make written findings of fact and 42303  
promulgate a written opinion and order upon the issues presented 42304  
to the conciliator, and upon the record made before the 42305  
conciliator and shall mail or otherwise deliver a true copy 42306  
thereof to the parties and the board. 42307

(11) Increases in rates of compensation and other matters 42308  
with cost implications awarded by the conciliator may be effective 42309  
only at the start of the fiscal year next commencing after the 42310  
date of the final offer settlement award; provided that if a new 42311  
fiscal year has commenced since the issuance of the board order to 42312  
submit to a final offer settlement procedure, the awarded 42313  
increases may be retroactive to the commencement of the new fiscal 42314  
year. The parties may, at any time, amend or modify a 42315  
conciliator's award or order by mutual agreement. 42316

(12) The parties shall bear equally the cost of the final 42317  
offer settlement procedure. 42318

(13) Conciliators appointed pursuant to this section shall be 42319  
residents of the state. 42320

(H) All final offer settlement awards and orders of the 42321  
conciliator made pursuant to Chapter 4117. of the Revised Code are 42322  
subject to review by the court of common pleas having jurisdiction 42323  
over the public employer as provided in Chapter 2711. of the 42324  
Revised Code. If the public employer is located in more than one 42325  
court of common pleas district, the court of common pleas in which 42326  
the principal office of the chief executive is located has 42327

jurisdiction. 42328

(I) The issuance of a final offer settlement award 42329  
constitutes a binding mandate to the public employer and the 42330  
exclusive representative to take whatever actions are necessary to 42331  
implement the award. 42332

**Sec. 4123.27.** Information contained in the annual statement 42333  
provided for in section 4123.26 of the Revised Code, and such 42334  
other information as may be furnished to the bureau of workers' 42335  
compensation by employers in pursuance of that section, is for the 42336  
exclusive use and information of the bureau in the discharge of 42337  
its official duties, and shall not be open to the public nor be 42338  
used in any court in any action or proceeding pending therein 42339  
unless the bureau is a party to the action or proceeding; but the 42340  
information contained in the statement may be tabulated and 42341  
published by the bureau in statistical form for the use and 42342  
information of other state departments and the public. No person 42343  
in the employ of the bureau, except those who are authorized by 42344  
the administrator of workers' compensation, shall divulge any 42345  
information secured by the person while in the employ of the 42346  
bureau in respect to the transactions, property, claim files, 42347  
records, or papers of the bureau or in respect to the business or 42348  
mechanical, chemical, or other industrial process of any company, 42349  
firm, corporation, person, association, partnership, or public 42350  
utility to any person other than the administrator or to the 42351  
superior of such employee of the bureau. 42352

Notwithstanding the restrictions imposed by this section, the 42353  
governor, select or standing committees of the general assembly, 42354  
the auditor of state, the attorney general, or their designees, 42355  
pursuant to the authority granted in this chapter and Chapter 42356  
4121. of the Revised Code, may examine any records, claim files, 42357  
or papers in possession of the industrial commission or the 42358

bureau. They also are bound by the privilege that attaches to 42359  
these papers. 42360

The administrator shall report to the director of job and 42361  
family services or to the county director of job and family 42362  
services the name, address, and social security number or other 42363  
identification number of any person receiving workers' 42364  
compensation whose name or social security number or other 42365  
identification number is the same as that of a person required by 42366  
a court or child support enforcement agency to provide support 42367  
payments to a recipient or participant of public assistance, and 42368  
whose name is submitted to the administrator by the director under 42369  
section 5101.36 of the Revised Code. The administrator also shall 42370  
inform the director of the amount of workers' compensation paid to 42371  
the person during such period as the director specifies. 42372

Within fourteen days after receiving from the director of job 42373  
and family services a list of the names and social security 42374  
numbers of recipients or participants of public assistance 42375  
pursuant to section 5101.181 of the Revised Code, the 42376  
administrator shall inform the auditor of state of the name, 42377  
current or most recent address, and social security number of each 42378  
person receiving workers' compensation pursuant to this chapter 42379  
whose name and social security number are the same as that of a 42380  
person whose name or social security number was submitted by the 42381  
director. The administrator also shall inform the auditor of state 42382  
of the amount of workers' compensation paid to the person during 42383  
such period as the director specifies. 42384

The bureau and its employees, except for purposes of 42385  
furnishing the auditor of state with information required by this 42386  
section, shall preserve the confidentiality of recipients or 42387  
participants of public assistance in compliance with division (A) 42388  
of section 5101.181 of the Revised Code. 42389

For the purposes of this section, "public assistance" means 42390

medical assistance provided through the medical assistance program 42391  
established under section 5111.01 of the Revised Code, Ohio works 42392  
first provided under Chapter 5107. of the Revised Code, 42393  
prevention, retention, and contingency benefits and services 42394  
provided under Chapter 5108. of the Revised Code, ~~or~~ disability 42395  
financial assistance provided under Chapter 5115. of the Revised 42396  
Code, or disability medical assistance provided under Chapter 42397  
5115. of the Revised Code. 42398

**Sec. 4123.41.** (A) By the first day of January of each year, 42399  
the bureau of workers' compensation shall furnish to the county 42400  
auditor of each county and the chief fiscal officer of each taxing 42401  
district in a county and of each district activity and institution 42402  
mentioned in section 4123.39 of the Revised Code forms containing 42403  
the premium rates applicable to the county, district, district 42404  
activity, or institution as an employer, on which to report the 42405  
amount of money expended by the county, district, district 42406  
activity, or institution during the previous twelve calendar 42407  
months for the services of employees under this chapter. 42408

(B) Each county auditor and each fiscal officer of a 42409  
district, district activity, and institution shall calculate on 42410  
the form it receives from the bureau under division (A) of this 42411  
section the premium due as its proper contribution to the public 42412  
insurance fund and issue ~~his~~ a warrant in favor of the bureau for 42413  
the amount due from the county, district, district activity, or 42414  
institution to the public insurance fund according to the 42415  
following schedule: 42416

(1) On or before the fifteenth day of May of each year, no 42417  
less than forty-five per cent of the amount due; 42418

(2) On or before the first day of September of each year, no 42419  
less than the total amount due. 42420

The legislative body of any county, district, district 42421

activity, or institution may reimburse the fund from which the 42422  
contribution is made by transferring to the fund from any other 42423  
fund of the county, district, district activity, or institution, 42424  
the proportionate amount of the contribution that should be 42425  
chargeable to the fund, whether the fund is derived from taxation 42426  
or otherwise. The proportionate amount of the contribution 42427  
chargeable to the fund may be based on payroll, relative exposure, 42428  
relative loss experience, or any combination of these factors, as 42429  
determined by the legislative body. Within sixty days before a 42430  
legislative body changes the method used for calculating the 42431  
proportionate amount of the contribution chargeable to the fund, 42432  
it shall notify, consult with, and give information supporting the 42433  
change to any elected official affected by the change. A transfer 42434  
made pursuant to division (B)(2) of this section is not subject to 42435  
section 5705.16 of the Revised Code. 42436

(C) The bureau may investigate the correctness of the 42437  
information provided by the county auditor and chief fiscal 42438  
officer under division (B) of this section, and if the bureau 42439  
determines at any time that the county, district, district 42440  
activity, or institution has not reported the correct information, 42441  
the administrator of workers' compensation may make deductions or 42442  
additions as the facts warrant and take those facts into 42443  
consideration in determining the current or future contributions 42444  
to be made by the county, district, district activity, or 42445  
institution. If the county, district, district activity, or 42446  
institution does not furnish the report in the time required by 42447  
this section, the administrator may fix the amount of contribution 42448  
the county, district, district activity, or institution must make 42449  
and certify that amount for payment. 42450

(D) The administrator shall provide a discount to any county, 42451  
district, district activity, or institution that pays its total 42452  
amount due to the public insurance fund on or before the fifteenth 42453

day of May of each year as its proper contribution for premiums. 42454  
The administrator shall base the discount provided under this 42455  
division on the savings generated by the early payment to the 42456  
public insurance fund. The administrator may provide the discount 42457  
through a refund to the county, district, district activity, or 42458  
institution or an offset against the future contributions due to 42459  
the public insurance fund from the county, district, district 42460  
activity, or institution. 42461

(E) The administrator may impose an interest penalty for late 42462  
payment of any amount due from a county, district, district 42463  
activity, and institution at the interest rate established by the 42464  
state tax commissioner pursuant to section 5703.47 of the Revised 42465  
Code. 42466

**Sec. 4141.04.** The director of job and family services shall 42467  
maintain or ensure the existence of public employment offices that 42468  
are free to the general public. These offices shall exist in such 42469  
number and in such places as are necessary for the proper 42470  
administration of this chapter, to perform such duties as are 42471  
within the purview of the act of congress entitled "an act to 42472  
provide for the establishment of a national employment system and 42473  
for cooperation with the states in the promotion of such system, 42474  
and for other purposes," approved June 6, 1933, as amended, which 42475  
is known as the "Wagner-Peyser Act." The director shall cooperate 42476  
with any official or agency of the United States having powers or 42477  
duties under that act of congress and shall do and perform all 42478  
things necessary to secure to this state the benefits of that act 42479  
of congress in the promotion and maintenance of a system of public 42480  
employment offices. That act of congress is hereby accepted by 42481  
this state, in conformity with that act of congress and Title III 42482  
of the "Social Security Act," and the "Federal Unemployment Tax 42483  
Act," 26 U.S.C.A. 3301, as amended, and this state will observe 42484  
and comply with the requirements thereof. The department of job 42485

and family services is hereby designated and constituted the 42486  
agency of this state for the purposes of that act of congress. 42487

The director may cooperate with or enter into agreements with 42488  
the railroad retirement board with respect to the establishment, 42489  
maintenance, and use of employment service facilities that are 42490  
free to the general public. 42491

All moneys received by this state under the act of congress 42492  
known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the 42493  
state treasury to the credit of the special employment service 42494  
account in the ~~unemployment compensation administration~~ federal 42495  
operating fund, which is hereby created. Those moneys are hereby 42496  
made available to the director to be expended as provided by this 42497  
section and by that act of congress. For the purpose of 42498  
establishing and maintaining public employment offices that are 42499  
free to the general public, the director may enter into agreements 42500  
with the railroad retirement board or any other agency of the 42501  
United States charged with the administration of an unemployment 42502  
compensation law, with any political subdivision of this state, or 42503  
with any private, nonprofit organization and as a part of any such 42504  
agreement the director may accept moneys, services, or quarters as 42505  
a contribution to the employment service account. 42506

The director shall maintain labor market information and 42507  
employment statistics as necessary for the administration of this 42508  
chapter. 42509

The director shall appoint an employee of the department to 42510  
serve as an ex officio member of the governor's council to 42511  
maintain a liaison between the department and the governor's 42512  
council on people with disabilities. 42513

**Sec. 4141.09.** (A) There is hereby created an unemployment 42514  
compensation fund to be administered by the state without 42515  
liability on the part of the state beyond the amounts paid into 42516

the fund and earned by the fund. The unemployment compensation 42517  
fund shall consist of all contributions, payments in lieu of 42518  
contributions described in sections 4141.241 and 4141.242 of the 42519  
Revised Code, reimbursements of the federal share of extended 42520  
benefits described in section 4141.301 of the Revised Code, 42521  
collected under sections 4141.01 to 4141.46 of the Revised Code, 42522  
together with all interest earned upon any moneys deposited with 42523  
the secretary of the treasury of the United States to the credit 42524  
of the account of this state in the unemployment trust fund 42525  
established and maintained pursuant to section 904 of the "Social 42526  
Security Act," any property or securities acquired through the use 42527  
of moneys belonging to the fund, and all earnings of such property 42528  
or securities. The unemployment compensation fund shall be used to 42529  
pay benefits and refunds as provided by such sections and for no 42530  
other purpose. 42531

(B) The treasurer of state shall be the custodian of the 42532  
unemployment compensation fund and shall administer such fund in 42533  
accordance with the directions of the director of job and family 42534  
services. All disbursements therefrom shall be paid by the 42535  
treasurer of state on warrants drawn by the director. Such 42536  
warrants may bear the facsimile signature of the director printed 42537  
thereon and that of a deputy or other employee of the director 42538  
charged with the duty of keeping the account of the unemployment 42539  
compensation fund and with the preparation of warrants for the 42540  
payment of benefits to the persons entitled thereto. Moneys in the 42541  
clearing and benefit accounts shall not be commingled with other 42542  
state funds, except as provided in division (C) of this section, 42543  
but shall be maintained in separate accounts on the books of the 42544  
depository bank. Such money shall be secured by the depository 42545  
bank to the same extent and in the same manner as required by 42546  
sections 135.01 to 135.21 of the Revised Code; and collateral 42547  
pledged for this purpose shall be kept separate and distinct from 42548  
any collateral pledged to secure other funds of this state. All 42549

sums recovered for losses sustained by the unemployment 42550  
compensation fund shall be deposited therein. The treasurer of 42551  
state shall be liable on the treasurer's official bond for the 42552  
faithful performance of the treasurer's duties in connection with 42553  
the unemployment compensation fund, such liability to exist in 42554  
addition to any liability upon any separate bond. 42555

(C) The treasurer of state shall maintain within the 42556  
unemployment compensation fund three separate accounts which shall 42557  
be a clearing account, an unemployment trust fund account, and a 42558  
benefit account. All moneys payable to the unemployment 42559  
compensation fund, upon receipt thereof by the director, shall be 42560  
forwarded to the treasurer of state, who shall immediately deposit 42561  
them in the clearing account. Refunds of contributions, or 42562  
payments in lieu of contributions, payable pursuant to division 42563  
(E) of this section may be paid from the clearing account upon 42564  
warrants signed by a deputy or other employee of the director 42565  
charged with the duty of keeping the record of the clearing 42566  
account and with the preparation of warrants for the payment of 42567  
refunds to persons entitled thereto. After clearance thereof, all 42568  
moneys in the clearing account shall be deposited with the 42569  
secretary of the treasury of the United States to the credit of 42570  
the account of this state in the unemployment trust fund 42571  
established and maintained pursuant to section 904 of the "Social 42572  
Security Act," in accordance with requirements of the "Federal 42573  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 42574  
3304(a)(3), any law in this state relating to the deposit, 42575  
administration, release, or disbursement of moneys in the 42576  
possession or custody of this state to the contrary 42577  
notwithstanding. The benefit account shall consist of all moneys 42578  
requisitioned from this state's account in the unemployment trust 42579  
fund. Federal funds, other than funds received by the director 42580  
under divisions (I) and (J) of this section, received for payment 42581  
of federal benefits may be deposited into the benefit account 42582

solely for payment of benefits under a federal program 42583  
administered by this state. Moneys so requisitioned shall be used 42584  
solely for the payment of benefits and for no other purpose. 42585  
Moneys in the clearing and benefit accounts may be deposited by 42586  
the treasurer of state, under the direction of the director, in 42587  
any bank or public depository in which general funds of the state 42588  
may be deposited, but no public deposit insurance charge or 42589  
premium shall be paid out of the fund. 42590

(D) Moneys shall be requisitioned from this state's account 42591  
in the unemployment trust fund solely for the payment of benefits 42592  
and in accordance with regulations prescribed by the director. The 42593  
director shall requisition from the unemployment trust fund such 42594  
amounts, not exceeding the amount standing to this state's account 42595  
therein, as are deemed necessary for the payment of benefits for a 42596  
reasonable future period. Upon receipt thereof, the treasurer of 42597  
state shall deposit such moneys in the benefit account. 42598  
Expenditures of such money in the benefit account and refunds from 42599  
the clearing account shall not require specific appropriations or 42600  
other formal release by state officers of money in their custody. 42601  
Any balance of moneys requisitioned from the unemployment trust 42602  
fund which remains unclaimed or unpaid in the benefit account 42603  
after the expiration of the period for which such sums were 42604  
requisitioned shall either be deducted from estimates for and may 42605  
be utilized for the payment of benefits during succeeding periods, 42606  
or, in the discretion of the director, shall be redeposited with 42607  
the secretary of the treasury of the United States to the credit 42608  
of this state's account in the unemployment trust fund, as 42609  
provided in division (C) of this section. Unclaimed or unpaid 42610  
federal funds redeposited with the secretary of the treasury of 42611  
the United States shall be credited to the appropriate federal 42612  
account. 42613

(E) No claim for an adjustment or a refund on contribution, 42614

payment in lieu of contributions, interest, or forfeiture alleged 42615  
to have been erroneously or illegally assessed or collected, or 42616  
alleged to have been collected without authority, and no claim for 42617  
an adjustment or a refund of any sum alleged to have been 42618  
excessive or in any manner wrongfully collected shall be allowed 42619  
unless an application, in writing, therefor is made within four 42620  
years from the date on which such payment was made. If the 42621  
director ~~determines~~ determines that such contribution, payment in 42622  
lieu of contributions, ~~interest~~ interest, or forfeiture, or any 42623  
portion ~~thereof~~ thereof, was erroneously collected, the director 42624  
shall allow such employer to make an adjustment thereof without 42625  
interest in connection with subsequent contribution payments, or 42626  
payments in lieu of contributions, by the employer, or the 42627  
director may refund said amount, without interest, from the 42628  
clearing account of the unemployment compensation fund, except as 42629  
provided in division (B) of section 4141.11 of the Revised Code. 42630  
For like cause and within the same period, adjustment or refund 42631  
may be so made on the director's own initiative. An overpayment of 42632  
contribution, payment in lieu of contributions, interest, or 42633  
forfeiture for which an employer has not made application for 42634  
refund prior to the date of sale of the employer's business shall 42635  
accrue to the employer's successor in interest. 42636

An application for an adjustment or a refund, or any portion 42637  
thereof, that is rejected is binding upon the employer unless, 42638  
within thirty days after the mailing of a written notice of 42639  
rejection to the employer's last known address, or, in the absence 42640  
of mailing of such notice, within thirty days after the delivery 42641  
of such notice, the employer files an application for a review and 42642  
redetermination setting forth the reasons therefor. The director 42643  
shall promptly examine the application for review and 42644  
redetermination, and if a review is granted, the employer shall be 42645  
promptly notified thereof, and shall be granted an opportunity for 42646  
a prompt hearing. 42647

(F) If the director finds that contributions have been paid 42648  
to the director in error, and that such contributions should have 42649  
been paid to a department of another state or of the United States 42650  
charged with the administration of an unemployment compensation 42651  
law, the director may upon request by such department or upon the 42652  
director's own initiative transfer to such department the amount 42653  
of such contributions, less any benefits paid to claimants whose 42654  
wages were the basis for such contributions. The director may 42655  
request and receive from such department any contributions or 42656  
adjusted contributions paid in error to such department which 42657  
should have been paid to the director. 42658

(G) In accordance with section 303(c)(3) of the Social 42659  
Security Act, and section 3304(a)(17) of the Internal Revenue Code 42660  
of 1954 for continuing certification of Ohio unemployment 42661  
compensation laws for administrative grants and for tax credits, 42662  
any interest required to be paid on advances under Title XII of 42663  
the Social Security Act shall be paid in a timely manner and shall 42664  
not be paid, directly or indirectly, by an equivalent reduction in 42665  
the Ohio unemployment taxes or otherwise, by the state from 42666  
amounts in the unemployment compensation fund. 42667

(H) The treasurer of state, under the direction of the 42668  
director and in accordance with the "Cash Management Improvement 42669  
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit 42670  
amounts of interest earned by the state on funds in the benefit 42671  
account established pursuant to division (C) of this section into 42672  
the department of job and family services banking fees fund, which 42673  
is hereby created in the state treasury for the purpose of paying 42674  
related banking costs incurred by the state for the period for 42675  
which the interest is calculated, except that if the deposited 42676  
interest exceeds the banking costs incurred by the state for the 42677  
period for which the interest is calculated, the treasurer of 42678  
state shall deposit the excess interest into the unemployment 42679

trust fund. 42680

(I) The treasurer of state, under the direction of the 42681  
director, shall deposit federal funds received by the director for 42682  
the payment of benefits, job search, relocation, transportation, 42683  
and subsistence allowances pursuant to the "Trade Act of 1974," 88 42684  
Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 42685  
Free Trade Implementation Act of 1993," 107 Stat. 2057, 19 42686  
U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 42687  
993, 19 U.S.C.A. 3801, as amended, into the Trade Act benefit 42688  
account, which is hereby created for the purpose of ~~paying for~~ 42689  
~~benefits, training, and support services~~ making payments specified 42690  
under ~~that act~~ those acts. 42691

(J) The treasurer of state, under the direction of the 42692  
director, shall deposit federal funds received by the director for 42693  
training and administration pursuant to the "Trade Act of 1974," 42694  
88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 42695  
Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 42696  
19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 42697  
Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American~~ 42698  
~~Free Trade Act~~ training and administration account, which is 42699  
hereby created for the purpose of ~~paying for benefits, training,~~ 42700  
~~and support services~~ making payments specified under ~~that act~~ 42701  
those acts. 42702

**Sec. 4141.201.** (A) If an employer submits a form, report, 42703  
record, or makes any other filing required under this chapter and 42704  
the filing contains incorrect information, the employer shall not 42705  
be required to pay any penalty with respect to the submission, 42706  
provided that the employer has voluntarily identified and 42707  
corrected the incorrect information. 42708

(B) This section does not apply to any false information 42709  
knowingly included by the employer in a form, report, record, or 42710

other filing for the principal purpose of avoiding any payment 42711  
required under this chapter. 42712

**Sec. 4141.23.** (A) Contributions shall accrue and become 42713  
payable by each employer for each calendar year or other period as 42714  
prescribed by this chapter. Such contributions become due and 42715  
shall be paid by each employer to the director of job and family 42716  
services for the unemployment compensation fund in accordance with 42717  
such regulations as the director prescribes, and shall not be 42718  
deducted, in whole or in part, from the remuneration of 42719  
individuals in the employer's employ. 42720

In the payment of any contributions, a fractional part of a 42721  
dollar may be disregarded unless it amounts to fifty cents or 42722  
more, in which case it may be increased to the next higher dollar. 42723

(B)(1) Any contribution or payment in lieu of contribution, 42724  
due from an employer on or before December 31, 1992, shall, if not 42725  
paid when due, bear interest at the rate of ten per cent per 42726  
annum. In such computation any fraction of a month shall be 42727  
considered as a full month. 42728

(2) Any contribution, payment in lieu of contribution, 42729  
interest, forfeiture, or fine due from an employer on or after 42730  
January 1, 1993, shall, if not paid when due, bear interest at the 42731  
annual rate of fourteen per cent compounded monthly on the 42732  
aggregate receivable balance due. In such computation any fraction 42733  
of a month shall be considered as a full month. 42734

(C) The director may waive the interest assessed under 42735  
division (B)(2) of this section if the employer meets all of the 42736  
following conditions within thirty days after the date the 42737  
director mails or delivers the notice of assessment of interest: 42738

(1) Provides to the director a written request for a waiver 42739  
of interest clearly demonstrating that the employer's failure to 42740

timely pay contributions, payments in lieu of contributions, 42741  
interest, forfeiture, and fines was a result of circumstances 42742  
beyond the control of the employer or the employer's agent, except 42743  
that negligence on the part of the employer or the employer's 42744  
agent shall not be considered beyond the control of the employer 42745  
or the employer's agent; 42746

(2) Furnishes to the director all quarterly reports required 42747  
under section 4141.20 of the Revised Code; 42748

(3) Pays in full all contributions, payments in lieu of 42749  
contributions, interest, forfeiture, and fines for each quarter 42750  
for which such payments are due. 42751

The director shall deny an employer's request for a waiver of 42752  
interest after finding that the employer's failure to timely 42753  
furnish reports or make payments as required under this chapter 42754  
was due to an attempt to evade payment. 42755

(D) Any contribution, interest, forfeiture, or fine required 42756  
to be paid under this chapter by any employer shall, if not paid 42757  
when due, become a lien upon the real and personal property of 42758  
such employer. Upon failure of such employer to pay the 42759  
contributions, interest, forfeiture, or fine required to be paid 42760  
under this chapter, the director shall file notice of such lien, 42761  
for which there shall be no charge, in the office of the county 42762  
recorder of the county in which it is ascertained that such 42763  
employer owns real estate or personal property. The director shall 42764  
notify the employer by mail of the lien. The absence of proof that 42765  
the notice was sent does not affect the validity of the lien. Such 42766  
lien shall not be valid as against the claim of any mortgagee, 42767  
pledgee, purchaser, judgment creditor, or other lienholder of 42768  
record at the time such notice is filed. 42769

If the employer acquires real or personal property after 42770  
notice of lien is filed, such lien shall not be valid as against 42771

the claim of any mortgagee, pledgee, subsequent bona fide 42772  
purchaser for value, judgment creditor, or other lienholder of 42773  
record to such after-acquired property, unless the notice of lien 42774  
is refiled after such property was acquired by the employer and 42775  
before the competing lien attached to such after-acquired property 42776  
or before the conveyance to such subsequent bona fide purchaser 42777  
for value. 42778

Such notice shall be recorded in a book kept by the recorder 42779  
called the "unemployment compensation lien record" and indexed 42780  
therein in an alphabetical index under the name of such employer. 42781  
When such unpaid contributions, interest, forfeiture, or fines 42782  
have been paid, the employer may record with the recorder of the 42783  
county in which such notice of lien has been filed and recorded, 42784  
notice of such payment. For recording ~~such~~ the notice of payment 42785  
the recorder shall charge and receive from the employer a base fee 42786  
of two dollars for services and a housing trust fund fee of two 42787  
dollars pursuant to section 317.36 of the Revised Code. 42788

(E) Notwithstanding other provisions in this section, the 42789  
director may reduce, in whole or in part, the amount of interest, 42790  
forfeiture, or fines required to be paid under this chapter if the 42791  
director determines that the reduction is in the best interest of 42792  
the unemployment compensation fund. 42793

(F) Assessment of contributions shall not be made after four 42794  
years from the date on which such contributions became payable, 42795  
and no action in court for the collection of contributions without 42796  
assessment of such contributions shall be begun after the 42797  
expiration of five years from the date such contributions became 42798  
payable. In case of a false or fraudulent report or of a willful 42799  
attempt in any manner to evade contributions, such contributions 42800  
may be assessed or a proceeding in court for the collection of 42801  
such contributions may be begun without assessment at any time. 42802  
When the assessment of contributions has been made within such 42803

four-year period provided, action in court to collect such 42804  
contributions may be begun within, but not later than, six years 42805  
after such assessment. 42806

(G) In the event of a distribution of an employer's assets, 42807  
pursuant to an order of any court under the law of this state, 42808  
including any receivership, assignment for benefit of creditors, 42809  
adjudicated insolvency, or similar proceedings, contributions, 42810  
interest, forfeiture, or fine then or thereafter due have the same 42811  
priority as provided by law for the payment of taxes due the state 42812  
and shall be paid out of the trust fund in the same manner as 42813  
provided for other claims for unpaid taxes due the state. 42814

(H) If the attorney general finds after investigation that 42815  
any claim for delinquent contributions, interest, forfeitures, or 42816  
fines owing to the director is uncollectible, in whole or in part, 42817  
the attorney general shall recommend to the director the 42818  
cancellation of such claim or any part thereof. The director may 42819  
thereupon effect such cancellation. 42820

**Sec. 4301.03.** The liquor control commission may adopt and 42821  
promulgate, repeal, rescind, and amend, in the manner required by 42822  
this section, rules, standards, requirements, and orders necessary 42823  
to carry out this chapter and Chapter 4303. of the Revised Code, 42824  
but all rules of the board of liquor control ~~which~~ that were in 42825  
effect immediately prior to April 17, 1963, shall remain in full 42826  
force and effect as rules of the liquor control commission until 42827  
and unless amended or repealed by the liquor control commission. 42828  
The rules of the commission may include the following: 42829

(A) Rules with reference to applications for and the issuance 42830  
of permits for the manufacture, distribution, transportation, and 42831  
sale of beer and intoxicating liquor, and the sale of alcohol; and 42832  
rules governing the procedure of the division of liquor control in 42833  
the suspension, revocation, and cancellation of those permits; 42834

(B) Rules and orders providing in detail for the conduct of 42835  
any retail business authorized under permits issued pursuant to 42836  
this chapter and Chapter 4303. of the Revised Code, with a view to 42837  
ensuring compliance with those chapters and laws relative to them, 42838  
and the maintenance of public decency, sobriety, and good order in 42839  
any place licensed under the permits. No rule or order shall 42840  
prohibit the sale of lottery tickets issued pursuant to Chapter 42841  
3770. of the Revised Code by any retail business authorized under 42842  
permits issued pursuant to that chapter. 42843

No rule or order shall prohibit pari-mutuel wagering on 42844  
simulcast horse races at a satellite facility that has been issued 42845  
a D liquor permit under Chapter 4303. of the Revised Code. No rule 42846  
or order shall prohibit a charitable organization that holds a D-4 42847  
permit from selling or serving beer or intoxicating liquor under 42848  
its permit in a portion of its premises merely because that 42849  
portion of its premises is used at other times for the conduct of 42850  
a ~~charitable~~ bingo game, as described in division (S) of section 42851  
2915.01 of the Revised Code. However, such an organization shall 42852  
not sell or serve beer or intoxicating liquor or permit beer or 42853  
intoxicating liquor to be consumed or seen in the same location in 42854  
its premises where a ~~charitable~~ bingo game, as described in 42855  
division (S)(1) of section 2915.01 of the Revised Code, is being 42856  
conducted while the game is being conducted. As used in this 42857  
division, "charitable organization" has the same meaning as in 42858  
division (H) of section 2915.01 of the Revised Code, ~~and~~ 42859  
~~"charitable bingo game" has the same meaning as in division (R) of~~ 42860  
~~that section~~. No rule or order pertaining to visibility into the 42861  
premises of a permit holder after the legal hours of sale shall be 42862  
adopted or maintained by the commission. 42863

(C) Standards, not in conflict with those prescribed by any 42864  
law of this state or the United States, to secure the use of 42865  
proper ingredients and methods in the manufacture of beer, mixed 42866

beverages, and wine to be sold within this state; 42867

(D) Rules determining the nature, form, and capacity of all 42868  
packages and bottles to be used for containing beer or 42869  
intoxicating liquor, except for spirituous liquor to be kept or 42870  
sold, governing the form of all seals and labels to be used on 42871  
those packages and bottles, and requiring the label on every 42872  
package, bottle, and container to state the ingredients in the 42873  
contents and, except on beer, the terms of weight, volume, or 42874  
proof spirits, and whether the same is beer, wine, alcohol, or any 42875  
intoxicating liquor except for spirituous liquor; 42876

(E) Uniform rules governing all advertising with reference to 42877  
the sale of beer and intoxicating liquor throughout the state and 42878  
advertising upon and in the premises licensed for the sale of beer 42879  
or intoxicating liquor; 42880

(F) Rules restricting and placing conditions upon the 42881  
transfer of permits; 42882

(G) Rules and orders limiting the number of permits of any 42883  
class within the state or within any political subdivision of the 42884  
state; and, for that purpose, adopting reasonable classifications 42885  
of persons or establishments to which any authorized class of 42886  
permits may be issued within any political subdivision; 42887

(H) Rules and orders with reference to sales of beer and 42888  
intoxicating liquor on Sundays and holidays and with reference to 42889  
the hours of the day during which and the persons to whom 42890  
intoxicating liquor of any class may be sold, and rules with 42891  
reference to the manner of sale; 42892

(I) Rules requiring permit holders buying beer to pay and 42893  
permit holders selling beer to collect minimum cash deposits for 42894  
kegs, cases, bottles, or other returnable containers of the beer; 42895  
requiring the repayment, or credit, of the minimum cash deposit 42896  
charges upon the return of the empty containers; and requiring the 42897

posting of such form of indemnity or such other conditions with 42898  
respect to the charging, collection, and repayment of minimum cash 42899  
deposit charges for returnable containers of beer as are necessary 42900  
to ensure the return of the empty containers or the repayment upon 42901  
that return of the minimum cash deposits paid; 42902

(J) Rules establishing the method by which alcohol products 42903  
may be imported for sale by wholesale distributors and the method 42904  
by which manufacturers and suppliers may sell alcohol products to 42905  
wholesale distributors. 42906

Every rule, standard, requirement, or order of the commission 42907  
and every repeal, amendment, or rescission of them shall be posted 42908  
for public inspection in the principal office of the commission 42909  
and the principal office of the division of liquor control, and a 42910  
certified copy of them shall be filed in the office of the 42911  
secretary of state. An order applying only to persons named in it 42912  
shall be served on the persons affected by personal delivery of a 42913  
certified copy, or by mailing a certified copy to each person 42914  
affected by it or, in the case of a corporation, to any officer or 42915  
agent of the corporation upon whom a service of summons may be 42916  
served in a civil action. The posting and filing required by this 42917  
section constitutes sufficient notice to all persons affected by 42918  
such rule or order which is not required to be served. General 42919  
rules of the commission promulgated pursuant to this section shall 42920  
be published in the manner the commission determines. 42921

**Sec. 4301.19.** The division of liquor control shall sell 42922  
spirituous liquor only, whether from a warehouse or from a state 42923  
liquor store. All sales shall be in sealed containers and for 42924  
resale as authorized by ~~Chapters 4301-~~ this chapter and Chapter 42925  
4303. of the Revised Code or for consumption off the premises 42926  
only. Except as otherwise provided in this section, sale of 42927  
containers holding one-half pint or less of spirituous liquor by 42928

the division shall be made at retail only, and not for the purpose 42929  
of resale by any purchaser, by special order placed with a state 42930  
retail liquor store and subject to rules established by the 42931  
superintendent of liquor control. The division ~~shall~~ may sell at 42932  
wholesale spirituous liquor in fifty milliliter sealed containers 42933  
to ~~hotels that sell spirituous liquor by means of a controlled~~ 42934  
~~access alcohol and beverage cabinet in accordance with division~~ 42935  
~~(B) of section 4301.21~~ any holder of a permit issued under Chapter 42936  
4303. of the Revised Code, ~~but only for purposes of resale by the~~ 42937  
~~hotel in sealed containers by means of a controlled access alcohol~~ 42938  
~~and beverage cabinet~~ that authorizes the sale of spirituous liquor 42939  
for consumption on the premises where sold. A person appointed by 42940  
the division to act as an agent for the sale of spirituous liquor 42941  
pursuant to section 4301.17 of the Revised Code may provide and 42942  
accept gift certificates and may accept credit cards and debit 42943  
cards for the retail purchase of spirituous liquor. Deliveries 42944  
shall be made in ~~such~~ the manner ~~as~~ the superintendent determines 42945  
by rule. 42946

If any ~~persons desire~~ person desires to purchase any variety 42947  
or brand of spirituous liquor which is not in stock at the state 42948  
liquor store where the ~~same~~ variety or brand is ordered, the 42949  
division shall immediately procure the ~~same~~ variety or brand after 42950  
a reasonable deposit is made by the purchaser in such proportion 42951  
of the approximate cost of the order as is prescribed by the rules 42952  
of the superintendent. The purchaser shall be immediately notified 42953  
upon the arrival of the spirituous liquor at the store at which it 42954  
was ordered. Unless ~~such~~ the purchaser pays for the ~~same~~ variety 42955  
or brand and accepts delivery within five days after the giving of 42956  
~~such~~ the notice, the division may place ~~such~~ the spirituous liquor 42957  
in stock for general sale, and the deposit of the purchaser shall 42958  
be forfeited. 42959

**Sec. 4303.02.** Permit A-1 may be issued to a manufacturer to 42960

manufacture beer and sell beer products in bottles or containers 42961  
for home use and to retail and wholesale permit holders under 42962  
rules promulgated by the division of liquor control. The fee for 42963  
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 42964  
dollars for each plant during the year covered by the permit. 42965

**Sec. 4303.021.** Permit A-1-A may be issued to the holder of an 42966  
A-1 or A-2 permit to sell beer and any intoxicating liquor at 42967  
retail, only by the individual drink in glass or from a container, 42968  
provided such A-1-A permit premises are situated on the same 42969  
parcel or tract of land as the related A-1 or A-2 manufacturing 42970  
permit premises or are separated therefrom only by public streets 42971  
or highways or by other lands owned by the holder of the A-1 or 42972  
A-2 permit and used by the holder in connection with or in 42973  
promotion of the holder's A-1 or A-2 permit business. The fee for 42974  
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 42975  
dollars. The holder of an A-1-A permit may sell beer and any 42976  
intoxicating liquor during the same hours as the holders of D-5 42977  
permits under this chapter or Chapter 4301. of the Revised Code or 42978  
the rules of the liquor control commission and shall obtain a 42979  
license as a retail food establishment or a food service operation 42980  
pursuant to Chapter 3717. of the Revised Code and operate as a 42981  
restaurant for purposes of this chapter. 42982

Except as otherwise provided in this section, no new A-1-A 42983  
permit shall be issued to the holder of an A-1 or A-2 permit 42984  
unless the sale of beer and intoxicating liquor under class D 42985  
permits is permitted in the precinct in which the A-1 or A-2 42986  
permit is located and, in the case of an A-2 permit, unless the 42987  
holder of the A-2 permit manufactures or has a storage capacity of 42988  
at least twenty-five thousand gallons of wine per year. The 42989  
immediately preceding sentence does not prohibit the issuance of 42990  
an A-1-A permit to an applicant for such a permit who is the 42991  
holder of an A-1 permit and whose application was filed with the 42992

division of liquor control before June 1, 1994. The liquor control 42993  
commission shall not restrict the number of A-1-A permits which 42994  
may be located within a precinct. 42995

**Sec. 4303.03.** Permit A-2 may be issued to a manufacturer to 42996  
manufacture wine from grapes or other fruits grown in the state, 42997  
if obtainable, otherwise to import such fruits after submitting an 42998  
affidavit of nonavailability to the division of liquor control; to 42999  
import and purchase wine in bond for blending purposes, the total 43000  
amount of wine so imported during the year covered by the permit 43001  
not to exceed forty per cent of all the wine manufactured and 43002  
imported; to manufacture, purchase, and import brandy for 43003  
fortifying purposes; and to sell such products either in glass or 43004  
container for consumption on the premises where manufactured, for 43005  
home use, and to retail and wholesale permit holders under such 43006  
rules as are adopted by the division. 43007

The fee for this permit is ~~sixty-three~~ one hundred twenty-six 43008  
dollars for each plant producing one hundred wine barrels, of 43009  
fifty gallons each, or less annually. ~~Such~~ This initial fee shall 43010  
be increased at the rate of ten cents per such barrel for all wine 43011  
manufactured in excess of one hundred barrels during the year 43012  
covered by the permit. 43013

**Sec. 4303.04.** Permit A-3 may be issued to a manufacturer to 43014  
manufacture alcohol and spirituous liquor and sell such products 43015  
to the division of liquor control or to the holders of a like 43016  
permit or to the holders of A-4 permits for blending or 43017  
manufacturing purposes; to import alcohol into this state upon 43018  
such terms as are prescribed by the division; to sell alcohol to 43019  
manufacturers, hospitals, infirmaries, medical or educational 43020  
institutions using it for medicinal, mechanical, chemical, or 43021  
scientific purposes, and to holders of I permits; to import into 43022  
this state spirituous liquor and wine for blending or other 43023

manufacturing purposes; and to export spirituous liquor from this 43024  
state for sale outside the state. 43025

The fee for this permit is three thousand ~~one~~ nine hundred 43026  
~~twenty-five~~ six dollars for each plant; but, if a plant's 43027  
production capacity is less than five hundred wine barrels of 43028  
fifty gallons each, annually, the fee is two dollars per barrel. 43029

**Sec. 4303.05.** Permit A-4 may be issued to a manufacturer to 43030  
manufacture prepared highballs, cocktails, cordials, and other 43031  
mixed drinks containing not less than four per cent of alcohol by 43032  
volume and not more than twenty-one per cent of alcohol by volume, 43033  
and to sell such products to wholesale and retail permit holders 43034  
in sealed containers only under such rules as are adopted by the 43035  
division of liquor control. The holder of such permit may import 43036  
into the state spirituous liquor and wine only for blending or 43037  
other manufacturing purposes under such rules as are prescribed by 43038  
the division. 43039

The holder of such permit may also purchase spirituous liquor 43040  
for manufacturing and blending purposes from the holder of an A-3 43041  
permit issued by the division. The formulas and the beverages 43042  
manufactured by the holder of an A-4 permit ~~must~~ shall be 43043  
submitted to the division for its analysis and approval before 43044  
~~such~~ the beverages may be sold to or distributed in this state by 43045  
holders of retail and wholesale permits. All labels and 43046  
advertising matter used by the holders of ~~such~~ A-4 permits ~~must~~ 43047  
shall be approved by the division before they may be used in this 43048  
state. The fee for ~~this~~ an A-4 permit is three thousand ~~one~~ nine 43049  
hundred ~~twenty-five~~ six dollars for each plant. 43050

**Sec. 4303.06.** Permit B-1 may be issued to a wholesale 43051  
distributor of beer to purchase from the holders of A-1 permits 43052  
and to import and distribute or sell beer for home use and to 43053

retail permit holders under rules adopted by the division of 43054  
liquor control. The fee for this permit is ~~two~~ three thousand ~~five~~ 43055  
one hundred twenty-five dollars for each distributing plant or 43056  
warehouse during the year covered by the permit. 43057

**Sec. 4303.07.** Permit B-2 may be issued to a wholesale 43058  
distributor of wine to purchase from holders of A-2 and B-5 43059  
permits and distribute or sell such product, in the original 43060  
container in which it was placed by the B-5 permit holder or 43061  
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 43062  
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 43063  
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 43064  
The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars for each 43065  
distributing plant or warehouse. The initial fee shall be 43066  
increased ten cents per wine barrel of fifty gallons for all wine 43067  
distributed and sold in this state in excess of twelve hundred 43068  
fifty such barrels during the year covered by the permit. 43069

**Sec. 4303.08.** Permit B-3 may be issued to a wholesale 43070  
distributor of wine to bottle, distribute, or sell sacramental 43071  
wine for religious rites upon an application signed, dated, and 43072  
approved as required by section 4301.23 of the Revised Code. The 43073  
fee for this permit is ~~sixty-two~~ one hundred twenty-four dollars. 43074

**Sec. 4303.09.** Permit B-4 may be issued to a wholesale 43075  
distributor to purchase from the holders of A-4 permits and to 43076  
import, distribute, and sell prepared and bottled highballs, 43077  
cocktails, cordials, and other mixed beverages containing not less 43078  
than four per cent of alcohol by volume and not more than 43079  
twenty-one per cent of alcohol by volume to retail permit holders, 43080  
and for home use, under ~~such~~ rules ~~as are~~ adopted by the division 43081  
of liquor control. The formula and samples of all such beverages 43082  
to be handled by the permit holder ~~must~~ shall be submitted to the 43083

division for analysis and the approval of the division before such 43084  
beverages may be sold and distributed in this state. All labels 43085  
and advertising matter used by the holders of ~~such permits must~~ 43086  
this permit shall be approved by the division before they may be 43087  
used in this state. The fee for this permit shall be computed on 43088  
the basis of annual sales, and the initial fee is ~~two~~ five hundred 43089  
~~fifty~~ dollars for each distributing plant or warehouse. ~~Such~~ The 43090  
initial fee shall be increased at the rate of ten cents per wine 43091  
barrel of fifty gallons for all such beverages distributed and 43092  
sold in this state in excess of one thousand such barrels during 43093  
the year covered by the permit. 43094

**Sec. 4303.10.** Permit B-5 may be issued to a wholesale 43095  
distributor of wine to purchase wine from the holders of A-2 43096  
permits, to purchase and import wine in bond or otherwise, in bulk 43097  
or in containers of any size, and to bottle wine for distribution 43098  
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 43099  
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 43100  
D-5j, D-5k, and E permits and for home use in sealed containers. 43101  
No wine shall be bottled by a B-5 permit holder in containers 43102  
supplied by any person who intends the wine for home use. The fee 43103  
for this permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three 43104  
dollars. 43105

**Sec. 4303.11.** Permit C-1 may be issued to the owner or 43106  
operator of a retail store to sell beer in containers and not for 43107  
consumption on the premises where sold in original containers 43108  
having a capacity of not more than five and one-sixth gallons. The 43109  
fee for this permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two 43110  
dollars for each location. 43111

**Sec. 4303.12.** Permit C-2 may be issued to the owner or 43112  
operator of a retail store to sell wine in sealed containers only 43113

and not for consumption on the premises where sold in original 43114  
containers. The holder of ~~such~~ this permit may also sell and 43115  
distribute in original packages and not for consumption on the 43116  
premises where sold or for resale, prepared and bottled highballs, 43117  
cocktails, cordials, and other mixed beverages manufactured and 43118  
distributed by holders of A-4 and B-4 permits, and containing not 43119  
less than four per cent of alcohol by volume, and not more than 43120  
twenty-one per cent of alcohol by volume. The fee for this permit 43121  
is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars for each 43122  
location. 43123

**Sec. 4303.121.** Effective October 1, 1982, permit C-2x shall 43124  
be issued to the holder of a C-2 permit who does not also hold a 43125  
C-1 permit, to sell beer only not for consumption on the premises 43126  
where sold, in original containers having a capacity of not more 43127  
than five and one-sixth gallons. Applicants for a C-2 permit as of 43128  
October 1, 1982 shall be issued a C-2x permit subject to the 43129  
restrictions for the issuance of the C-2 permit. The fee for a 43130  
C-2x permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two dollars. 43131

**Sec. 4303.13.** Permit D-1 may be issued to the owner or 43132  
operator of a hotel ~~or,~~ of a retail food establishment or a food 43133  
service operation licensed pursuant to Chapter 3717. of the 43134  
Revised Code that operates as a restaurant for purposes of this 43135  
chapter, or of a club, amusement park, drugstore, lunch stand, 43136  
boat, or vessel, ~~and shall be issued to a person described in~~ 43137  
~~division (B) of this section,~~ to sell beer at retail either in 43138  
glass or container, for consumption on the premises where sold; 43139  
~~and, except as otherwise provided in division (B) of this section,~~ 43140  
to sell beer at retail in other receptacles or in original 43141  
containers having a capacity of not more than five and one-sixth 43142  
gallons not for consumption on the premises where sold. The fee 43143  
for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six 43144

dollars for each location, boat, or vessel. 43145

**Sec. 4303.14.** Permit D-2 may be issued to the owner or 43146  
operator of a hotel ~~or~~ of a retail food establishment or a food 43147  
service operation licensed pursuant to Chapter 3717. of the 43148  
Revised Code that operates as a restaurant for purposes of this 43149  
chapter, or of a club, boat, or vessel, to sell wine and prepared 43150  
and bottled cocktails, cordials, and other mixed beverages 43151  
manufactured and distributed by holders of A-4 and B-4 permits at 43152  
retail, either in glass or container, for consumption on the 43153  
premises where sold. The holder of ~~such~~ this permit may also sell 43154  
wine and prepared and bottled cocktails, cordials, and other mixed 43155  
beverages in original packages and not for consumption on the 43156  
premises where sold or for resale. The fee for this permit is ~~two~~ 43157  
five hundred ~~eighty-two~~ sixty-four dollars for each location, 43158  
boat, or vessel. 43159

**Sec. 4303.141.** Effective October 1, 1982, permit D-2x shall 43160  
be issued to the holder of a D-2 permit who does not also hold a 43161  
D-1 permit, to sell beer at retail either in glass or container 43162  
for consumption on the premises where sold and to sell beer at 43163  
retail in other receptacles or original containers having a 43164  
capacity of not more than five and one-sixth gallons not for 43165  
consumption on the premises where sold. Applicants for a D-2 43166  
permit as of October 1, 1982, shall be issued a D-2x permit 43167  
subject to the quota restrictions for the issuance of the D-2 43168  
permit. The fee for a D-2x permit is ~~one~~ three hundred 43169  
~~eighty-eight~~ seventy-six dollars. 43170

**Sec. 4303.15.** Permit D-3 may be issued to the owner or 43171  
operator of a hotel ~~or~~ of a retail food establishment or a food 43172  
service operation licensed pursuant to Chapter 3717. of the 43173  
Revised Code that operates as a restaurant for purposes of this 43174

chapter, or of a club, boat, or vessel, to sell spirituous liquor 43175  
at retail, only by the individual drink in glass or from the 43176  
container, for consumption on the premises where sold. No sales of 43177  
intoxicating liquor shall be made by a holder of a D-3 permit 43178  
after one a.m. The fee for this permit is ~~six~~ seven hundred fifty 43179  
dollars for each location, boat, or vessel. 43180

**Sec. 4303.151.** On October 1, 1982, permit D-3x shall be 43181  
issued to the holder of a D-3 permit, to sell wine by the 43182  
individual drink in glass or from the container, for consumption 43183  
on the premises where sold. Applications for a D-3 permit on 43184  
October 1, 1982, may be issued a D-3x permit subject to the quota 43185  
restrictions for the issuance of a D-3 permit. The fee for a D-3x 43186  
permit is ~~one~~ three hundred fifty dollars. 43187

**Sec. 4303.16.** Permit D-3a may be issued to the holder of a 43188  
D-3 permit whenever ~~his~~ the holder's place of business is operated 43189  
after one a.m. and spirituous liquor is sold or consumed after 43190  
~~such~~ that hour. The holder of such permit may sell spirituous 43191  
liquor during the same hours as the holders of D-5 permits under 43192  
this chapter and Chapter 4301. of the Revised Code or the rules of 43193  
the liquor control commission. The fee for a D-3a permit is ~~seven~~ 43194  
nine hundred ~~fifty~~ thirty-eight dollars in addition to the fee 43195  
required for a D-3 permit. 43196

If the holder of a D-3a permit is also the holder of a D-1 43197  
permit, ~~he~~ the holder may sell beer after one a.m. and during the 43198  
same hours as the holder of a D-5 permit. If the holder of a D-3a 43199  
permit is also the holder of a D-2 permit, ~~he~~ the holder may sell 43200  
intoxicating liquor after one a.m. and during the same hours as 43201  
the holder of a D-5 permit. The holder of a D-3a permit may 43202  
furnish music and entertainment to ~~his~~ the holder's patrons, 43203  
subject to the same rules as govern D-5 permit holders. 43204

Sec. 4303.17. Permit D-4 may be issued to a club ~~which~~ that 43205  
has been in existence for three years or more prior to the 43206  
issuance of ~~such~~ the permit to sell beer and any intoxicating 43207  
liquor to its members only, in glass or container, for consumption 43208  
on the premises where sold. The fee for this permit is ~~three~~ four 43209  
hundred ~~seventy-five~~ sixty-nine dollars. No such permit shall be 43210  
granted or retained until all elected officers of such 43211  
organization controlling such club have filed with the division of 43212  
liquor control a statement certifying that such club is operated 43213  
in the interest of the membership of a reputable organization, 43214  
which is maintained by a dues paying membership, setting forth the 43215  
amount of initiation fee and yearly dues. All such matters shall 43216  
be contained in a statement signed under oath and accompanied by a 43217  
surety bond in the sum of one thousand dollars. Such bond shall be 43218  
declared forfeited in the full amount of the penal sum of the bond 43219  
for any false statement contained in such certificate and the 43220  
surety shall pay the amount of the bond to the division. The 43221  
roster of membership of a D-4 permit holder shall be submitted 43222  
under oath on the request of the superintendent of liquor control. 43223  
Any information acquired by the superintendent or the division 43224  
with respect to such membership shall not be open to public 43225  
inspection or examination and may be divulged by the 43226  
superintendent and the division only in hearings before the liquor 43227  
control commission or in a court action in which the division or 43228  
the superintendent is named a party. 43229

The requirement that a club shall have been in existence for 43230  
three years in order to qualify for a D-4 permit does not apply to 43231  
units of organizations chartered by congress or to a subsidiary 43232  
unit of a national fraternal organization if the parent 43233  
organization has been in existence for three years or more at the 43234  
time application for a permit is made by such unit. 43235

No rule or order of the division or commission shall prohibit 43236  
a charitable organization that holds a D-4 permit from selling or 43237  
serving beer or intoxicating liquor under its permit in a portion 43238  
of its premises merely because that portion of its premises is 43239  
used at other times for the conduct of a ~~charitable~~ bingo game as 43240  
described in division (S) of section 2915.01 of the Revised Code. 43241  
However, such an organization shall not sell or serve beer or 43242  
intoxicating liquor or permit beer or intoxicating liquor to be 43243  
consumed or seen in the same location in its premises where a 43244  
~~charitable~~ bingo game, as described in division (S)(1) of section 43245  
2915.01 of the Revised Code, is being conducted while the game is 43246  
being conducted. As used in this section, "charitable 43247  
organization" has the same meaning as in division (H) of section 43248  
2915.01 ~~and "charitable bingo game" has the same meaning as in~~ 43249  
~~division (R) of section 2915.01~~ of the Revised Code. 43250

**Sec. 4303.171.** Permit D-4a may be issued to an airline 43251  
company ~~which~~ that leases and operates a premises exclusively for 43252  
the benefit of the members and their guests of a private club 43253  
sponsored by the airline company, at a publicly owned airport, as 43254  
defined in section 4563.01 of the Revised Code, at which 43255  
commercial airline companies operate regularly scheduled flights 43256  
on which space is available to the public, to sell beer and any 43257  
intoxicating liquor to members of the private club and their 43258  
guests, only by the individual drink in glass and from the 43259  
container, for consumption on the premises where sold. In addition 43260  
to the privileges authorized in this section, the holder of a D-4a 43261  
permit may exercise the same privileges as a holder of a D-4 43262  
permit. The holder of a D-4a permit shall make no sales of beer or 43263  
intoxicating liquor after two-thirty a.m. 43264

A D-4a permit shall not be transferred to another location. 43265  
No quota restriction shall be placed upon the number of such 43266

permits which may be issued. 43267

The fee for this permit is ~~six~~ seven hundred fifty dollars. 43268

**Sec. 4303.18.** Permit D-5 may be issued to the owner or 43269  
operator of a retail food establishment or a food service 43270  
operation licensed pursuant to Chapter 3717. of the Revised Code 43271  
that operates as a restaurant or night club for purposes of this 43272  
chapter, to sell beer and any intoxicating liquor at retail, only 43273  
by the individual drink in glass and from the container, for 43274  
consumption on the premises where sold, and to sell the same 43275  
products in the same manner and amounts not for consumption on the 43276  
premises as may be sold by holders of D-1 and D-2 permits. A 43277  
person who is the holder of both a D-3 and D-3a permit need not 43278  
obtain a D-5 permit. The fee for this permit is ~~one~~ two thousand 43279  
~~eight~~ three hundred ~~seventy-five~~ forty-four dollars. 43280

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 43281  
owner or operator of a hotel or motel that is required to be 43282  
licensed under section 3731.03 of the Revised Code, that contains 43283  
at least fifty rooms for registered transient guests, and that 43284  
qualifies under the other requirements of this section, or to the 43285  
owner or operator of a restaurant specified under this section, to 43286  
sell beer and any intoxicating liquor at retail, only by the 43287  
individual drink in glass and from the container, for consumption 43288  
on the premises where sold, and to registered guests in their 43289  
rooms, which may be sold by means of a controlled access alcohol 43290  
and beverage cabinet in accordance with division (B) of section 43291  
4301.21 of the Revised Code; and to sell the same products in the 43292  
same manner and amounts not for consumption on the premises as may 43293  
be sold by holders of D-1 and D-2 permits. The premises of the 43294  
hotel or motel shall include a retail food establishment or a food 43295  
service operation licensed pursuant to Chapter 3717. of the 43296  
Revised Code that operates as a restaurant for purposes of this 43297

chapter and that is affiliated with the hotel or motel and within 43298  
or contiguous to the hotel or motel, and that serves food within 43299  
the hotel or motel, but the principal business of the owner or 43300  
operator of the hotel or motel shall be the accommodation of 43301  
transient guests. In addition to the privileges authorized in this 43302  
division, the holder of a D-5a permit may exercise the same 43303  
privileges as the holder of a D-5 permit. 43304

The owner or operator of a hotel, motel, or restaurant who 43305  
qualified for and held a D-5a permit on August 4, 1976, may, if 43306  
the owner or operator held another permit before holding a D-5a 43307  
permit, either retain a D-5a permit or apply for the permit 43308  
formerly held, and the division of liquor control shall issue the 43309  
permit for which the owner or operator applies and formerly held, 43310  
notwithstanding any quota. 43311

A D-5a permit shall not be transferred to another location. 43312  
No quota restriction shall be placed on the number of such permits 43313  
that may be issued. 43314

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 43315  
hundred ~~seventy-five~~ forty-four dollars. 43316

(B) Permit D-5b may be issued to the owner, operator, tenant, 43317  
lessee, or occupant of an enclosed shopping center to sell beer 43318  
and intoxicating liquor at retail, only by the individual drink in 43319  
glass and from the container, for consumption on the premises 43320  
where sold; and to sell the same products in the same manner and 43321  
amount not for consumption on the premises as may be sold by 43322  
holders of D-1 and D-2 permits. In addition to the privileges 43323  
authorized in this division, the holder of a D-5b permit may 43324  
exercise the same privileges as a holder of a D-5 permit. 43325

A D-5b permit shall not be transferred to another location. 43326

One D-5b permit may be issued at an enclosed shopping center 43327  
containing at least two hundred twenty-five thousand, but less 43328

than four hundred thousand, square feet of floor area. 43329

Two D-5b permits may be issued at an enclosed shopping center 43330  
containing at least four hundred thousand square feet of floor 43331  
area. No more than one D-5b permit may be issued at an enclosed 43332  
shopping center for each additional two hundred thousand square 43333  
feet of floor area or fraction of that floor area, up to a maximum 43334  
of five D-5b permits for each enclosed shopping center. The number 43335  
of D-5b permits that may be issued at an enclosed shopping center 43336  
shall be determined by subtracting the number of D-3 and D-5 43337  
permits issued in the enclosed shopping center from the number of 43338  
D-5b permits that otherwise may be issued at the enclosed shopping 43339  
center under the formulas provided in this division. Except as 43340  
provided in this section, no quota shall be placed on the number 43341  
of D-5b permits that may be issued. Notwithstanding any quota 43342  
provided in this section, the holder of any D-5b permit first 43343  
issued in accordance with this section is entitled to its renewal 43344  
in accordance with section 4303.271 of the Revised Code. 43345

The holder of a D-5b permit issued before April 4, 1984, 43346  
whose tenancy is terminated for a cause other than nonpayment of 43347  
rent, may return the D-5b permit to the division of liquor 43348  
control, and the division shall cancel that permit. Upon 43349  
cancellation of that permit and upon the permit holder's payment 43350  
of taxes, contributions, premiums, assessments, and other debts 43351  
owing or accrued upon the date of cancellation to this state and 43352  
its political subdivisions and a filing with the division of a 43353  
certification of that payment, the division shall issue to that 43354  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 43355  
that person requests. The division shall issue the D-5 permit, or 43356  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 43357  
D-3, or D-5 permits currently issued in the municipal corporation 43358  
or in the unincorporated area of the township where that person's 43359  
proposed premises is located equals or exceeds the maximum number 43360

of such permits that can be issued in that municipal corporation 43361  
or in the unincorporated area of that township under the 43362  
population quota restrictions contained in section 4303.29 of the 43363  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 43364  
be transferred to another location. If a D-5b permit is canceled 43365  
under the provisions of this paragraph, the number of D-5b permits 43366  
that may be issued at the enclosed shopping center for which the 43367  
D-5b permit was issued, under the formula provided in this 43368  
division, shall be reduced by one if the enclosed shopping center 43369  
was entitled to more than one D-5b permit under the formula. 43370

The fee for this permit is ~~one two thousand eight three~~ 43371  
hundred ~~seventy-five~~ forty-four dollars. 43372

(C) Permit D-5c may be issued to the owner or operator of a 43373  
retail food establishment or a food service operation licensed 43374  
pursuant to Chapter 3717. of the Revised Code that operates as a 43375  
restaurant for purposes of this chapter and that qualifies under 43376  
the other requirements of this section to sell beer and any 43377  
intoxicating liquor at retail, only by the individual drink in 43378  
glass and from the container, for consumption on the premises 43379  
where sold, and to sell the same products in the same manner and 43380  
amounts not for consumption on the premises as may be sold by 43381  
holders of D-1 and D-2 permits. In addition to the privileges 43382  
authorized in this division, the holder of a D-5c permit may 43383  
exercise the same privileges as the holder of a D-5 permit. 43384

To qualify for a D-5c permit, the owner or operator of a 43385  
retail food establishment or a food service operation licensed 43386  
pursuant to Chapter 3717. of the Revised Code that operates as a 43387  
restaurant for purposes of this chapter, shall have operated the 43388  
restaurant at the proposed premises for not less than twenty-four 43389  
consecutive months immediately preceding the filing of the 43390  
application for the permit, have applied for a D-5 permit no later 43391  
than December 31, 1988, and appear on the division's quota waiting 43392

list for not less than six months immediately preceding the filing 43393  
of the application for the permit. In addition to these 43394  
requirements, the proposed D-5c permit premises shall be located 43395  
within a municipal corporation and further within an election 43396  
precinct that, at the time of the application, has no more than 43397  
twenty-five per cent of its total land area zoned for residential 43398  
use. 43399

A D-5c permit shall not be transferred to another location. 43400  
No quota restriction shall be placed on the number of such permits 43401  
that may be issued. 43402

Any person who has held a D-5c permit for at least two years 43403  
may apply for a D-5 permit, and the division of liquor control 43404  
shall issue the D-5 permit notwithstanding the quota restrictions 43405  
contained in section 4303.29 of the Revised Code or in any rule of 43406  
the liquor control commission. 43407

The fee for this permit is one thousand ~~two~~ five hundred 43408  
~~fifty~~ sixty-three dollars. 43409

(D) Permit D-5d may be issued to the owner or operator of a 43410  
retail food establishment or a food service operation licensed 43411  
pursuant to Chapter 3717. of the Revised Code that operates as a 43412  
restaurant for purposes of this chapter and that is located at an 43413  
airport operated by a board of county commissioners pursuant to 43414  
section 307.20 of the Revised Code, at an airport operated by a 43415  
port authority pursuant to Chapter 4582. of the Revised Code, or 43416  
at an airport operated by a regional airport authority pursuant to 43417  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 43418  
sell beer and any intoxicating liquor at retail, only by the 43419  
individual drink in glass and from the container, for consumption 43420  
on the premises where sold, and may sell the same products in the 43421  
same manner and amounts not for consumption on the premises where 43422  
sold as may be sold by the holders of D-1 and D-2 permits. In 43423  
addition to the privileges authorized in this division, the holder 43424

of a D-5d permit may exercise the same privileges as the holder of 43425  
a D-5 permit. 43426

A D-5d permit shall not be transferred to another location. 43427  
No quota restrictions shall be placed on the number of such 43428  
permits that may be issued. 43429

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 43430  
hundred ~~seventy-five~~ forty-four dollars. 43431

(E) Permit D-5e may be issued to any nonprofit organization 43432  
that is exempt from federal income taxation under the "Internal 43433  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 43434  
amended, or that is a charitable organization under any chapter of 43435  
the Revised Code, and that owns or operates a riverboat that meets 43436  
all of the following: 43437

(1) Is permanently docked at one location; 43438

(2) Is designated as an historical riverboat by the Ohio 43439  
historical society; 43440

(3) Contains not less than fifteen hundred square feet of 43441  
floor area; 43442

(4) Has a seating capacity of fifty or more persons. 43443

The holder of a D-5e permit may sell beer and intoxicating 43444  
liquor at retail, only by the individual drink in glass and from 43445  
the container, for consumption on the premises where sold. 43446

A D-5e permit shall not be transferred to another location. 43447  
No quota restriction shall be placed on the number of such permits 43448  
that may be issued. The population quota restrictions contained in 43449  
section 4303.29 of the Revised Code or in any rule of the liquor 43450  
control commission shall not apply to this division, and the 43451  
division shall issue a D-5e permit to any applicant who meets the 43452  
requirements of this division. However, the division shall not 43453  
issue a D-5e permit if the permit premises or proposed permit 43454

premises are located within an area in which the sale of 43455  
spirituous liquor by the glass is prohibited. 43456

The fee for this permit is ~~nine~~ one thousand two hundred 43457  
~~seventy-five~~ nineteen dollars. 43458

(F) Permit D-5f may be issued to the owner or operator of a 43459  
retail food establishment or a food service operation licensed 43460  
under Chapter 3717. of the Revised Code that operates as a 43461  
restaurant for purposes of this chapter and that meets all of the 43462  
following: 43463

(1) It contains not less than twenty-five hundred square feet 43464  
of floor area. 43465

(2) It is located on or in, or immediately adjacent to, the 43466  
shoreline of, a navigable river. 43467

(3) It provides docking space for twenty-five boats. 43468

(4) It provides entertainment and recreation, provided that 43469  
not less than fifty per cent of the business on the permit 43470  
premises shall be preparing and serving meals for a consideration. 43471

In addition, each application for a D-5f permit shall be 43472  
accompanied by a certification from the local legislative 43473  
authority that the issuance of the D-5f permit is not inconsistent 43474  
with that political subdivision's comprehensive development plan 43475  
or other economic development goal as officially established by 43476  
the local legislative authority. 43477

The holder of a D-5f permit may sell beer and intoxicating 43478  
liquor at retail, only by the individual drink in glass and from 43479  
the container, for consumption on the premises where sold. 43480

A D-5f permit shall not be transferred to another location. 43481

The division of liquor control shall not issue a D-5f permit 43482  
if the permit premises or proposed permit premises are located 43483  
within an area in which the sale of spirituous liquor by the glass 43484

is prohibited. 43485

A fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred 43486  
~~seventy-five~~ forty-four dollars. 43487

As used in this division, "navigable river" means a river 43488  
that is also a "navigable water" as defined in the "Federal Power 43489  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 43490

(G) Permit D-5g may be issued to a nonprofit corporation that 43491  
is either the owner or the operator of a national professional 43492  
sports museum. The holder of a D-5g permit may sell beer and any 43493  
intoxicating liquor at retail, only by the individual drink in 43494  
glass and from the container, for consumption on the premises 43495  
where sold. The holder of a D-5g permit shall sell no beer or 43496  
intoxicating liquor for consumption on the premises where sold 43497  
after one a.m. A D-5g permit shall not be transferred to another 43498  
location. No quota restrictions shall be placed on the number of 43499  
D-5g permits that may be issued. The fee for this permit is one 43500  
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 43501

(H) Permit D-5h may be issued to any nonprofit organization 43502  
that is exempt from federal income taxation under the "Internal 43503  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 43504  
amended, that owns or operates a fine arts museum and has no less 43505  
than five thousand bona fide members possessing full membership 43506  
privileges. The holder of a D-5h permit may sell beer and any 43507  
intoxicating liquor at retail, only by the individual drink in 43508  
glass and from the container, for consumption on the premises 43509  
where sold. The holder of a D-5h permit shall sell no beer or 43510  
intoxicating liquor for consumption on the premises where sold 43511  
after one a.m. A D-5h permit shall not be transferred to another 43512  
location. No quota restrictions shall be placed on the number of 43513  
D-5h permits that may be issued. The fee for this permit is one 43514  
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 43515

(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 43546  
permit shall sell no beer or intoxicating liquor for consumption 43547  
on the premises where sold after two-thirty a.m. In addition to 43548  
the privileges authorized in this division, the holder of a D-5i 43549  
permit may exercise the same privileges as the holder of a D-5 43550  
permit. 43551

A D-5i permit shall not be transferred to another location. 43552  
The division of liquor control shall not renew a D-5i permit 43553  
unless the food service operation for which it is issued continues 43554  
to meet the requirements described in divisions (I)(1) to (6) of 43555  
this section. No quota restrictions shall be placed on the number 43556  
of D-5i permits that may be issued. The fee for this permit is ~~one~~ 43557  
two thousand eight ~~three~~ hundred ~~seventy-five~~ forty-four dollars. 43558

(J)(1) Permit D-5j may be issued to the owner or the operator 43559  
of a retail food establishment or a food service operation 43560  
licensed under Chapter 3717. of the Revised Code to sell beer and 43561  
intoxicating liquor at retail, only by the individual drink in 43562  
glass and from the container, for consumption on the premises 43563  
where sold and to sell beer and intoxicating liquor in the same 43564  
manner and amounts not for consumption on the premises where sold 43565  
as may be sold by the holders of D-1 and D-2 permits. The holder 43566  
of a D-5j permit may exercise the same privileges, and shall 43567  
observe the same hours of operation, as the holder of a D-5 43568  
permit. 43569

(2) The D-5j permit shall be issued only within a community 43570  
entertainment district that is designated under section 4301.80 of 43571  
the Revised Code and that is located in a municipal corporation 43572  
with a population of at least one hundred thousand. 43573

(3) The location of a D-5j permit may be transferred only 43574  
within the geographic boundaries of the community entertainment 43575  
district in which it was issued and shall not be transferred 43576  
outside the geographic boundaries of that district. 43577

(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, 43608  
D-5b, D-5c, D-5d, D-5e, D-5f, ~~D-5g~~, D-5h, D-5i, D-5j, D-5k, or D-7 43609  
permit to allow sale under that permit between the hours of ten 43610  
a.m. and midnight, or between the hours of one p.m. and midnight, 43611  
on Sunday, as applicable, if that sale has been authorized under 43612  
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 43613  
Code and under the restrictions of that authorization. 43614

(B) Permit D-6 shall be issued to the holder of any permit, 43615  
including a D-4a and D-5d permit, authorizing the sale of 43616  
intoxicating liquor issued for a premises located at any publicly 43617  
owned airport, as defined in section 4563.01 of the Revised Code, 43618  
at which commercial airline companies operate regularly scheduled 43619  
flights on which space is available to the public, to allow sale 43620  
under such permit between the hours of ten a.m. and midnight on 43621  
Sunday, whether or not that sale has been authorized under section 43622  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43623

(C) Permit D-6 shall be issued to the holder of a D-5a 43624  
permit, and to the holder of a D-3 or D-3a permit who is the owner 43625  
or operator of a hotel or motel that is required to be licensed 43626  
under section 3731.03 of the Revised Code, that contains at least 43627  
fifty rooms for registered transient guests, and that has on its 43628  
premises a retail food establishment or a food service operation 43629  
licensed pursuant to Chapter 3717. of the Revised Code that 43630  
operates as a restaurant for purposes of this chapter and is 43631  
affiliated with the hotel or motel and within or contiguous to the 43632  
hotel or motel and serving food within the hotel or motel, to 43633  
allow sale under such permit between the hours of ten a.m. and 43634  
midnight on Sunday, whether or not that sale has been authorized 43635  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 43636  
Revised Code. 43637

(D) The holder of a D-6 permit that is issued to a sports 43638  
facility may make sales under the permit between the hours of 43639

eleven a.m. and midnight on any Sunday on which a professional 43640  
baseball, basketball, football, hockey, or soccer game is being 43641  
played at the sports facility. As used in this division, "sports 43642  
facility" means a stadium or arena that has a seating capacity of 43643  
at least four thousand and that is owned or leased by a 43644  
professional baseball, basketball, football, hockey, or soccer 43645  
franchise or any combination of those franchises. 43646

(E) Permit D-6 shall be issued to the holder of any permit 43647  
that authorizes the sale of beer or intoxicating liquor and that 43648  
is issued to a premises located in or at the Ohio historical 43649  
society area or the state fairgrounds, as defined in division (B) 43650  
of section 4301.40 of the Revised Code, to allow sale under that 43651  
permit between the hours of ten a.m. and midnight on Sunday, 43652  
whether or not that sale has been authorized under section 43653  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43654

(F) Permit D-6 shall be issued to the holder of any permit 43655  
that authorizes the sale of intoxicating liquor and that is issued 43656  
to an outdoor performing arts center to allow sale under that 43657  
permit between the hours of one p.m. and midnight on Sunday, 43658  
whether or not that sale has been authorized under section 43659  
4301.361 of the Revised Code. A D-6 permit issued under this 43660  
division is subject to the results of an election, held after the 43661  
D-6 permit is issued, on question (B)(4) as set forth in section 43662  
4301.351 of the Revised Code. Following the end of the period 43663  
during which an election may be held on question (B)(4) as set 43664  
forth in that section, sales of intoxicating liquor may continue 43665  
at an outdoor performing arts center under a D-6 permit issued 43666  
under this division, unless an election on that question is held 43667  
during the permitted period and a majority of the voters voting in 43668  
the precinct on that question vote "no." 43669

As used in this division, "outdoor performing arts center" 43670  
means an outdoor performing arts center that is located on not 43671

less than eight hundred acres of land and that is open for 43672  
performances from the first day of April to the last day of 43673  
October of each year. 43674

(G) Permit D-6 shall be issued to the holder of any permit 43675  
that authorizes the sale of beer or intoxicating liquor and that 43676  
is issued to a golf course owned by the state, a conservancy 43677  
district, a park district created under Chapter 1545. of the 43678  
Revised Code, or another political subdivision to allow sale under 43679  
that permit between the hours of ten a.m. and midnight on Sunday, 43680  
whether or not that sale has been authorized under section 43681  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43682

(H) Permit D-6 shall be issued to the holder of a D-5g permit 43683  
to allow sale under that permit between the hours of ten a.m. and 43684  
midnight on Sunday, whether or not that sale has been authorized 43685  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 43686  
Revised Code. 43687

(I) If the restriction to licensed premises where the sale of 43688  
food and other goods and services exceeds fifty per cent of the 43689  
total gross receipts of the permit holder at the premises is 43690  
applicable, the division of liquor control may accept an affidavit 43691  
from the permit holder to show the proportion of the permit 43692  
holder's gross receipts derived from the sale of food and other 43693  
goods and services. If the liquor control commission determines 43694  
that affidavit to have been false, it shall revoke the permits of 43695  
the permit holder at the premises concerned. 43696

~~(I)~~(J) The fee for the D-6 permit is ~~two~~ five hundred ~~fifty~~ 43697  
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 43698  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 43699  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 43700  
permit is ~~two~~ four hundred dollars when it is issued to the holder 43701  
of a C-2 permit. 43702

Sec. 4303.183. Permit D-7 may be issued to the holder of any 43703  
D-2 permit issued by the division of liquor control, or if there 43704  
is an insufficient number of D-2 permit holders to fill the resort 43705  
quota, to the operator of a retail food establishment or a food 43706  
service operation required to be licensed under Chapter 3717. of 43707  
the Revised Code that operates as a restaurant for purposes of 43708  
this chapter and which qualifies under the other requirements of 43709  
this section, to sell beer and any intoxicating liquor at retail, 43710  
only by the individual drink in glass and from the container, for 43711  
consumption on the premises where sold. Not less than fifty per 43712  
cent of the business on the permit premises shall be preparing and 43713  
serving meals for a consideration in order to qualify for and 43714  
continue to hold such D-7 permit. The permit premises shall be 43715  
located in a resort area. 43716

"Resort area" means a municipal corporation, township, 43717  
county, or any combination thereof, which provides entertainment, 43718  
recreation, and transient housing facilities specifically intended 43719  
to provide leisure time activities for persons other than those 43720  
whose permanent residence is within the "resort area" and who 43721  
increase the population of the "resort area" on a seasonal basis, 43722  
and which experiences seasonal peaks of employment and 43723  
governmental services as a direct result of population increase 43724  
generated by the transient, recreating public. A resort season 43725  
shall begin on the first day of May and end on the last day of 43726  
October. Notwithstanding section 4303.27 of the Revised Code, such 43727  
permits may be issued for resort seasons without regard to the 43728  
calendar year or permit year. Quota restrictions on the number of 43729  
such permits shall take into consideration the transient 43730  
population during the resort season, the custom and habits of 43731  
visitors and tourists, and the promotion of the resort and tourist 43732  
industry. The fee for this permit is ~~three~~ four hundred 43733  
~~seventy-five~~ sixty-nine dollars per month. 43734

Any suspension of a D-7 permit shall be satisfied during the 43735  
resort season in which such suspension becomes final. If such 43736  
suspension becomes final during the off-season, or if the period 43737  
of the suspension extends beyond the last day of October, the 43738  
suspension or remainder thereof shall be satisfied during the next 43739  
resort season. 43740

The ownership of a D-7 permit may be transferred from one 43741  
permit holder to another. The holder of a D-7 permit may file an 43742  
application to transfer such permit to a new location within the 43743  
same resort area, provided that such permit holder shall be the 43744  
owner or operator of a retail food establishment or a food service 43745  
operation, required to be licensed under Chapter 3717. of the 43746  
Revised Code, that operates as a restaurant for purposes of this 43747  
chapter, at such new location. 43748

**Sec. 4303.184.** (A) Subject to division (B) of this section, a 43749  
D-8 permit may be issued to the holder of a C-1, C-2, or C-2x 43750  
permit issued to a retail store that has either of the following 43751  
characteristics: 43752

(1) The store has at least five thousand five hundred square 43753  
feet of floor area, and it generates more than sixty per cent of 43754  
its sales in general merchandise items and food for consumption 43755  
off the premises where sold. 43756

(2) Wine constitutes at least sixty per cent of the value of 43757  
the store's inventory. 43758

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 43759  
or C-2x permit only if the premises of the permit holder are 43760  
located in a precinct, or at a particular location in a precinct, 43761  
in which the sale of beer, wine, or mixed beverages is permitted 43762  
for consumption off the premises where sold. Sales under a D-8 43763  
permit are not affected by whether sales for consumption on the 43764

premises where sold are permitted in the precinct or at the 43765  
particular location where the D-8 premises are located. 43766

(C) The holder of a D-8 permit may sell tasting samples of 43767  
beer, wine, and mixed beverages, but not spirituous liquor, at 43768  
retail, for consumption on the premises where sold in an amount 43769  
not to exceed two ounces or another amount designated by rule of 43770  
the liquor control commission. A tasting sample shall not be sold 43771  
for general consumption. No D-8 permit holder shall allow any 43772  
authorized purchaser to consume more than four tasting samples of 43773  
beer, wine, or mixed beverages, or any combination of beer, wine, 43774  
or mixed beverages, per day. 43775

(D) The privileges authorized under a D-8 permit may only be 43776  
exercised in conjunction with and during the hours of operation 43777  
authorized by a C-1, C-2, C-2x, or D-6 permit. 43778

(E) A D-8 permit shall not be transferred to another 43779  
location. 43780

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ 43781  
dollars. 43782

(G) The holder of a D-8 permit shall cause an independent 43783  
audit to be performed at the end of the first full year of 43784  
operation following issuance of the permit, and at the end of each 43785  
second year thereafter, in order to verify that the permit holder 43786  
satisfies the applicable requirement of division (A)(1) or (2) of 43787  
this section. The permit holder shall transmit the results of the 43788  
independent audit to the division of liquor control. If the 43789  
results of the audit indicate noncompliance with division (A) of 43790  
this section, the division shall not renew the D-8 permit of the 43791  
permit holder. 43792

**Sec. 4303.19.** Permit E may be issued to the owner or operator 43793  
of any railroad, a sleeping car company operating dining cars, 43794

buffet cars, club cars, lounge cars, or similar equipment, or an 43795  
airline providing charter or regularly scheduled aircraft 43796  
transportation service with dining, buffet, club, lounge, or 43797  
similar facilities, to sell beer or any intoxicating liquor in any 43798  
such car or aircraft to bona fide passengers at retail in glass 43799  
and from the container for consumption in such car or aircraft, 43800  
including sale on Sunday between the hours of one p.m. and 43801  
midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ 43802  
dollars. 43803

**Sec. 4303.20.** Permit F may be issued to an association of ten 43804  
or more persons, a labor union, or a charitable organization, or 43805  
to an employer of ten or more persons sponsoring a function for 43806  
~~his~~ the employer's employees, to purchase from the holders of A-1 43807  
and B-1 permits and to sell beer for a period lasting not to 43808  
exceed five days. No more than two such permits may be issued to 43809  
the same applicant in any thirty-day period. 43810

The special function for which ~~such~~ the permit is issued 43811  
shall include a social, recreational, benevolent, charitable, 43812  
fraternal, political, patriotic, or athletic purpose but shall not 43813  
include any function the proceeds of which are for the profit or 43814  
gain of any individual. The fee for this permit is ~~twenty~~ forty 43815  
dollars. 43816

**Sec. 4303.201.** (A) As used in this section: 43817

(1) "Convention facility" means any structure owned or leased 43818  
by a municipal corporation or county which was expressly designed 43819  
and constructed and is currently used for the purpose of 43820  
presenting conventions, public meetings, and exhibitions. 43821

(2) "Nonprofit organization" means any unincorporated 43822  
association or nonprofit corporation that is not formed for the 43823  
pecuniary gain or profit of, and whose net earnings or any part 43824

thereof is not distributable to, its members, trustees, officers, 43825  
or other private persons; provided, that the payment of reasonable 43826  
compensation for services rendered and the distribution of assets 43827  
on dissolution shall not be considered pecuniary gain or profit or 43828  
distribution of earnings in an association or corporation all of 43829  
whose members are nonprofit corporations. Distribution of earnings 43830  
to member organizations does not deprive it of the status of a 43831  
nonprofit organization. 43832

(B) An F-1 permit may be issued to any nonprofit organization 43833  
to allow the nonprofit organization and its members and their 43834  
guests to lawfully bring beer, wine, and intoxicating liquor in 43835  
its original package, flasks, or other containers into a 43836  
convention facility for consumption therein, if both of the 43837  
following requirements are met: 43838

(1) The superintendent of liquor control is satisfied the 43839  
organization meets the definition of a nonprofit organization as 43840  
set forth in division (A)(2) of this section, the nonprofit 43841  
organization's membership includes persons residing in two or more 43842  
states, and the organization's total membership is in excess of 43843  
five hundred. The superintendent may accept a sworn statement by 43844  
the president or other chief executive officer of the nonprofit 43845  
organization as proof of the matters required in this division. 43846

(2) The managing official or employee of the convention 43847  
facility has given written consent to the use of the convention 43848  
facility and to the application for the F-1 permit, as shown in 43849  
the nonprofit organization's application to the superintendent. 43850

(C) The superintendent shall specify individually the 43851  
effective period of each F-1 permit on the permit, which shall not 43852  
exceed three days. The fee for an F-1 permit is ~~one~~ two hundred 43853  
~~twenty-five~~ fifty dollars. The superintendent shall prepare and 43854  
make available application forms to request F-1 permits and may 43855  
require applicants to furnish such information as the 43856

superintendent determines to be necessary for the administration 43857  
of this section. 43858

(D) No holder of an F-1 permit shall make a specific charge 43859  
for beer, wine, or intoxicating liquor by the drink, or in its 43860  
original package, flasks, or other containers in connection with 43861  
its use of the convention facility under the permit. 43862

**Sec. 4303.202.** (A) The division of liquor control may issue 43863  
an F-2 permit to an association or corporation, or to a recognized 43864  
subordinate lodge, chapter, or other local unit of an association 43865  
or corporation, to sell beer or intoxicating liquor by the 43866  
individual drink at an event to be held on premises located in a 43867  
political subdivision or part thereof where the sale of beer or 43868  
intoxicating liquor on that day is otherwise permitted by law. 43869

The division of liquor control may issue an F-2 permit to an 43870  
association or corporation, or to a recognized subordinate lodge, 43871  
chapter, or other local unit of an association or corporation, to 43872  
sell beer, wine, and spirituous liquor by the individual drink at 43873  
an event to be held on premises located in a political subdivision 43874  
or part thereof where the sale of beer and wine, but not 43875  
spirituous liquor, is otherwise permitted by law on that day. 43876

Notwithstanding section 1711.09 of the Revised Code, this 43877  
section applies to any association or corporation or a recognized 43878  
subordinate lodge, chapter, or other local unit of an association 43879  
or corporation. 43880

In order to receive an F-2 permit, the association, 43881  
corporation, or local unit shall be organized not for profit, 43882  
shall be operated for a charitable, cultural, fraternal, or 43883  
educational purpose, and shall not be affiliated with the holder 43884  
of any class of liquor permit, other than a D-4 permit. 43885

The premises on which the permit is to be used shall be 43886

clearly defined and sufficiently restricted to allow proper 43887  
supervision of the permit use by state and local law enforcement 43888  
personnel. An F-2 permit may be issued for the same premises for 43889  
which another class of permit is issued. 43890

No F-2 permit shall be effective for more than forty-eight 43891  
consecutive hours, and sales shall be confined to the same hours 43892  
permitted to the holder of a D-3 permit. The division shall not 43893  
issue more than two F-2 permits in one calendar year to the same 43894  
association, corporation, or local unit of an association or 43895  
corporation. The fee for an F-2 permit is ~~seventy-five~~ one hundred 43896  
fifty dollars. 43897

If an applicant wishes the holder of a D-3, D-4, or D-5 43898  
permit to conduct the sale of beer and intoxicating liquor at the 43899  
event, the applicant may request that the F-2 permit be issued 43900  
jointly to the association, corporation, or local unit and the 43901  
D-permit holder. If a permit is issued jointly, the association, 43902  
corporation, or local unit and the D-permit holder shall both be 43903  
held responsible for any conduct that violates laws pertaining to 43904  
the sale of alcoholic beverages, including sales by the D-permit 43905  
holder; otherwise, the association, corporation, or local unit 43906  
shall be held responsible. In addition to the permit fee paid by 43907  
the association, corporation, or local unit, the D-permit holder 43908  
shall pay a fee of ten dollars. A D-permit holder may receive an 43909  
unlimited number of joint F-2 permits. 43910

Any association, corporation, or local unit applying for an 43911  
F-2 permit shall file with the application a statement of the 43912  
organizational purpose of the association, corporation, or local 43913  
unit, the location and purpose of the event, and a list of its 43914  
officers. The application form shall contain a notice that a 43915  
person who knowingly makes a false statement on the application or 43916  
statement is guilty of the crime of falsification, a misdemeanor 43917  
of the first degree. In ruling on an application, the division 43918

shall consider, among other things, the past activities of the 43919  
association, corporation, or local unit and any D-permit holder 43920  
while operating under other F-2 permits, the location of the event 43921  
for which the current application is made, and any objections of 43922  
local residents or law enforcement authorities. If the division 43923  
approves the application, it shall send copies of the approved 43924  
application to the proper law enforcement authorities prior to the 43925  
scheduled event. 43926

Using the procedures of Chapter 119. of the Revised Code, the 43927  
liquor control commission may adopt such rules as are necessary to 43928  
administer this section. 43929

(B) No association, corporation, local unit of an association 43930  
or corporation, or D-permit holder who holds an F-2 permit shall 43931  
sell beer or intoxicating liquor beyond the hours of sale allowed 43932  
by the permit. This division imposes strict liability on the 43933  
holder of such permit and on any officer, agent, or employee of 43934  
such permit holder. 43935

**Sec. 4303.203.** (A) As used in this section: 43936

(1) "Convention facility" and "nonprofit corporation" have 43937  
the same meanings as in section 4303.201 of the Revised Code. 43938

(2) "Hotel" means a hotel described in section 3731.01 of the 43939  
Revised Code that has at least fifty rooms for registered 43940  
transient guests and that is required to be licensed pursuant to 43941  
section 3731.03 of the Revised Code. 43942

(B) An F-3 permit may be issued to an organization whose 43943  
primary purpose is to support, promote, and educate members of the 43944  
beer, wine, or mixed beverage industries, to allow the 43945  
organization to bring beer, wine, or mixed beverages in their 43946  
original packages or containers into a convention facility or 43947  
hotel for consumption in the facility or hotel, if all of the 43948

following requirements are met: 43949

(1) The superintendent of liquor control is satisfied that 43950  
the organization is a nonprofit organization and that the 43951  
organization's membership is in excess of two hundred fifty 43952  
persons. 43953

(2) The general manager or the equivalent officer of the 43954  
convention facility or hotel provides a written consent for the 43955  
use of a portion of the facility or hotel by the organization and 43956  
a written statement that the facility's or hotel's permit 43957  
privileges will be suspended in the portion of the facility or 43958  
hotel in which the F-3 permit is in force. 43959

(3) The organization provides a written description that 43960  
clearly sets forth the portion of the convention facility or hotel 43961  
in which the F-3 permit will be used. 43962

(4) The organization provides a written statement as to its 43963  
primary purpose and the purpose of its event at the convention 43964  
facility or hotel. 43965

(5) Division (C) of this section does not apply. 43966

(C) No F-3 permit shall be issued to any nonprofit 43967  
organization that is created by or for a specific manufacturer, 43968  
supplier, distributor, or retailer of beer, wine, or mixed 43969  
beverages. 43970

(D) Notwithstanding division (E) of section 4301.22 of the 43971  
Revised Code, a holder of an F-3 permit may obtain by donation 43972  
beer, wine, or mixed beverages from any manufacturer or producer 43973  
of beer, wine, or mixed beverages. 43974

(E) Nothing in this chapter prohibits the holder of an F-3 43975  
permit from bringing into the portion of the convention facility 43976  
or hotel covered by the permit beer, wine, or mixed beverages 43977  
otherwise not approved for sale in this state. 43978

(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 44009  
participating in the event for which the F-4 permit is issued, in 44010  
two-ounce samples for consumption on the premises where furnished 44011  
and may sell such wine by the glass for consumption on the 44012  
premises where sold. The holder of an A-2 permit that is 44013  
participating in the event for which the F-4 permit is issued may 44014  
sell wine that it has manufactured, in sealed containers for 44015  
consumption off the premises where sold. Wine may be furnished or 44016  
sold on the premises of the event for which the F-4 permit is 44017  
issued only where and when the sale of wine is otherwise permitted 44018  
by law. 44019

(C) The premises of the event for which the F-4 permit is 44020  
issued shall be clearly defined and sufficiently restricted to 44021  
allow proper enforcement of the permit by state and local law 44022  
enforcement officers. If an F-4 permit is issued for all or a 44023  
portion of the same premises for which another class of permit is 44024  
issued, that permit holder's privileges will be suspended in that 44025  
portion of the premises in which the F-4 permit is in effect. 44026

(D) No F-4 permit shall be effective for more than 44027  
seventy-two consecutive hours. No sales or furnishing of wine 44028  
shall take place under an F-4 permit after one a.m. 44029

(E) The division shall not issue more than six F-4 permits to 44030  
the same not-for-profit association or corporation in any one 44031  
calendar year. 44032

(F) An applicant for an F-4 permit shall apply for the permit 44033  
not later than thirty days prior to the first day of the event for 44034  
which the permit is sought. The application for the permit shall 44035  
list all of the A-2 permit holders that will participate in the 44036  
event for which the F-4 permit is sought. The fee for the F-4 44037  
permit is ~~thirty~~ sixty dollars per day. 44038

The division shall prepare and make available an F-4 permit 44039

application form and may require applicants for and holders of the 44040  
F-4 permit to provide information that is in addition to that 44041  
required by this section and that is necessary for the 44042  
administration of this section. 44043

(G)(1) The holder of an F-4 permit is responsible for, and is 44044  
subject to penalties for, any violations of this chapter or 44045  
Chapter 4301. of the Revised Code or the rules adopted under this 44046  
and that chapter. 44047

(2) An F-4 permit holder shall not allow an A-2 permit holder 44048  
to participate in the event for which the F-4 permit is issued if 44049  
the A-2 or A-1-A permit of that A-2 permit holder is under 44050  
suspension. 44051

(3) The division may refuse to issue an F-4 permit to an 44052  
applicant who has violated any provision of this chapter or 44053  
Chapter 4301. of the Revised Code during the applicant's previous 44054  
operation under an F-4 permit, for a period of up to two years 44055  
after the date of the violation. 44056

(H)(1) Notwithstanding division (E) of section 4301.22 of the 44057  
Revised Code, an A-2 permit holder that participates in an event 44058  
for which an F-4 permit is issued may donate wine that it has 44059  
manufactured to the holder of that F-4 permit. The holder of an 44060  
F-4 permit may return unused and sealed containers of wine to the 44061  
A-2 permit holder that donated the wine at the conclusion of the 44062  
event for which the F-4 permit was issued. 44063

(2) The participation by an A-2 permit holder or its 44064  
employees in an event for which an F-4 permit is issued does not 44065  
violate section 4301.24 of the Revised Code. 44066

**Sec. 4303.21.** Permit G may be issued to the owner of a 44067  
pharmacy in charge of a licensed pharmacist to be named in ~~such~~ 44068  
the permit for the sale at retail of alcohol for medicinal 44069

purposes in quantities at each sale of not more than one gallon 44070  
upon the written prescription of a physician or dentist who is 44071  
lawfully and regularly engaged in the practice of the physician's 44072  
or dentist's profession in this state, and for the sale of 44073  
industrial alcohol for mechanical, chemical, or scientific 44074  
purposes to a person known by the seller to be engaged in ~~such~~ 44075  
mechanical, chemical, or scientific pursuits; all subject to 44076  
section 4303.34 of the Revised Code. The fee for this permit ~~is~~ 44077  
~~fifty~~ is one hundred dollars. 44078

**Sec. 4303.22.** Permit H may be issued for a fee of ~~one~~ three 44079  
hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds 44080  
a license issued by the public utilities commission to transport 44081  
beer, intoxicating liquor, and alcohol, or any of them, in this 44082  
state for delivery or use in this state. This section does not 44083  
prevent the division of liquor control from contracting with 44084  
common or contract carriers for the delivery or transportation of 44085  
liquor for the division, and any contract or common carrier so 44086  
contracting with the division is eligible for an H permit. 44087  
Manufacturers or wholesale distributors of beer or intoxicating 44088  
liquor other than spirituous liquor who transport or deliver their 44089  
own products to or from their premises licensed under this chapter 44090  
and Chapter 4301. of the Revised Code by their own trucks as an 44091  
incident to the purchase or sale of such beverages need not obtain 44092  
an H permit. Carriers by rail shall receive an H permit upon 44093  
application for it. 44094

This section does not prevent the division from issuing, upon 44095  
the payment of the permit fee, an H permit to any person, 44096  
partnership, firm, or corporation licensed by any other state to 44097  
engage in the business of manufacturing and brewing or producing 44098  
beer, wine, and mixed beverages or any person, partnership, firm, 44099  
or corporation licensed by the United States or any other state to 44100  
engage in the business of importing beer, wine, and mixed 44101

beverages manufactured outside the United States. The 44102  
manufacturer, brewer, or importer of products manufactured outside 44103  
the United States, upon the issuance of an H permit, may 44104  
transport, ship, and deliver only its own products to holders of 44105  
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 44106  
operated by such class H permit holder. No H permit shall be 44107  
issued by the division to such applicant until the applicant files 44108  
with the division a liability insurance certificate or policy 44109  
satisfactory to the division, in a sum of not less than one 44110  
thousand nor more than five thousand dollars for property damage 44111  
and for not less than five thousand nor more than fifty thousand 44112  
dollars for loss sustained by reason of injury or death and with 44113  
such other terms as the division considers necessary to adequately 44114  
protect the interest of the public, having due regard for the 44115  
number of persons and amount of property affected. The certificate 44116  
or policy shall insure the manufacturer, brewer, or importer of 44117  
products manufactured outside the United States against loss 44118  
sustained by reason of the death of or injury to persons, and for 44119  
loss of or damage to property, from the negligence of such class H 44120  
permit holder in the operation of its motor vehicles or equipment 44121  
in this state. 44122

**Sec. 4303.23.** Permit I may be issued to wholesale druggists 44123  
to purchase alcohol from the holders of A-3 permits and to import 44124  
alcohol into ~~Ohio~~ this state subject to ~~such~~ terms ~~as~~ are imposed 44125  
by the division of liquor control; to sell at wholesale to 44126  
physicians, dentists, druggists, veterinary surgeons, 44127  
manufacturers, hospitals, infirmaries, and medical or educational 44128  
institutions using such alcohol for medicinal, mechanical, 44129  
chemical, or scientific purposes, and to holders of G permits for 44130  
nonbeverage purposes only; and to sell alcohol at retail in total 44131  
quantities at each sale of not more than one quart, upon the 44132  
written prescription of a physician or dentist who is lawfully and 44133

regularly engaged in the practice of ~~his~~ the physician's or 44134  
dentist's profession in this state. The sale of alcohol under this 44135  
section is subject to section 4303.34 of the Revised Code. The fee 44136  
for this permit is ~~one~~ two hundred dollars. 44137

"Wholesale druggists," as used in this section includes all 44138  
persons holding federal wholesale liquor dealers' licenses and who 44139  
are engaged in the sale of medicinal drugs, proprietary medicines, 44140  
and surgical and medical appliances and apparatus, at wholesale. 44141

**Sec. 4303.231.** Permit W may be issued to a manufacturer or 44142  
supplier of beer or intoxicating liquor to operate a warehouse for 44143  
the storage of beer or intoxicating liquor within this state and 44144  
to sell ~~such~~ those products from the warehouse only to holders of 44145  
B permits in this state and to other customers outside this state 44146  
under rules promulgated by the liquor control commission. Each 44147  
holder of a B permit with a consent to import on file with the 44148  
division of liquor control may purchase beer or intoxicating 44149  
liquor if designated by the permit to make ~~such~~ those purchases, 44150  
from the holder of a W permit. The fee for a W permit is one 44151  
thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each 44152  
warehouse during the year covered by the permit. 44153

**Sec. 4501.06.** The taxes, fees, and fines levied, charged, or 44154  
referred to in division (C)(1) of section 4503.10, division (D) of 44155  
section 4503.182, and sections 4505.11, 4505.111, 4506.08, 44156  
4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised 44157  
Code, unless otherwise designated by law, shall be deposited in 44158  
the state treasury to the credit of the state highway safety fund, 44159  
which is hereby created, and shall, after receipt of 44160  
certifications from the commissioners of the sinking fund 44161  
certifying, as required by sections 5528.15 and 5528.35 of the 44162  
Revised Code, that there are sufficient moneys to the credit of 44163  
the highway improvement bond retirement fund created by section 44164

5528.12 of the Revised Code to meet in full all payments of 44165  
interest, principal, and charges for the retirement of bonds and 44166  
other obligations issued pursuant to Section 2g of Article VIII, 44167  
Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised 44168  
Code due and payable during the current calendar year, and that 44169  
there are sufficient moneys to the credit of the highway 44170  
obligations bond retirement fund created by section 5528.32 of the 44171  
Revised Code to meet in full all payments of interest, principal, 44172  
and charges for the retirement of highway obligations issued 44173  
pursuant to Section 2i of Article VIII, Ohio Constitution, and 44174  
sections 5528.30 and 5528.31 of the Revised Code due and payable 44175  
during the current calendar year, be used for the purpose of 44176  
enforcing and paying the expenses of administering the law 44177  
relative to the registration and operation of motor vehicles on 44178  
the public roads or highways. Amounts credited to the fund may 44179  
also be used to pay the expenses of administering and enforcing 44180  
the laws under which such fees were collected. All investment 44181  
earnings of the state highway safety fund shall be credited to the 44182  
fund. 44183

**Sec. 4503.101.** (A) The registrar of motor vehicles shall 44184  
adopt rules to establish a system of motor vehicle registration 44185  
based upon the type of vehicle to be registered, the type of 44186  
ownership of the vehicle, the class of license plate to be issued, 44187  
and any other factor the registrar determines to be relevant. 44188  
Except for commercial cars, buses, trailers, and semitrailers 44189  
taxed under section 4503.042 of the Revised Code; except for 44190  
rental vehicles owned by motor vehicle renting dealers; and except 44191  
as otherwise provided by rule, motor vehicles owned by an 44192  
individual shall be registered based upon the motor vehicle 44193  
owner's date of birth. Beginning with the 2004 registration year, 44194  
the registrar shall assign motor vehicles to the registration 44195  
periods established by rules adopted under this section. 44196

(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, 44229  
provided that the registrar may disapprove any such request 44230  
whenever the registrar has reason to believe that an uneven 44231  
distribution of registrations throughout the calendar year has 44232  
developed or is likely to develop. 44233

(E) Every owner or lessee of a motor vehicle holding a 44234  
certificate of registration shall notify the registrar of any 44235  
change of the owner's or lessee's correct address within ten days 44236  
after the change occurs. The notification shall be in writing on a 44237  
form provided by the registrar or by electronic means approved by 44238  
the registrar and shall include the full name, date of birth if 44239  
applicable, license number, county of residence or place of 44240  
business, social security account number of an individual or 44241  
federal tax identification number of a business, and new address. 44242

(F) As used in this section, "motor vehicle renting dealer" 44243  
has the same meaning as in section 4549.65 of the Revised Code. 44244

**Sec. 4503.103.** (A)(1)(a) The registrar of motor vehicles may 44245  
adopt rules to permit any person or lessee, other than a person 44246  
receiving an apportioned license plate under the international 44247  
registration plan, who owns or leases one or more motor vehicles 44248  
to file a written application for registration for no more than 44249  
five succeeding registration years. The rules adopted by the 44250  
registrar may designate the classes of motor vehicles that are 44251  
eligible for such registration. At the time of application, all 44252  
annual taxes and fees shall be paid for each year for which the 44253  
person is registering. 44254

(b) ~~The (i) Except as provided in division (A)(1)(b)(ii) of~~ 44255  
~~this section, the registrar shall adopt rules to permit any~~ 44256  
~~person, other than a person receiving an apportioned license plate~~ 44257  
~~under the international registration plan and other than the owner~~ 44258  
~~of a commercial car used solely in intrastate commerce, who owns a~~ 44259

motor vehicle to file an application for registration for the next 44260  
two succeeding registration years. At the time of application, the 44261  
person shall pay the annual taxes and fees for each registration 44262  
year, calculated in accordance with division (C) of section 44263  
4503.11 of the Revised Code. A person who is registering a vehicle 44264  
under division (A)(1)(b) of this section shall pay for each year 44265  
of registration the additional fee established under division 44266  
(C)(1) of section 4503.10 of the Revised Code. The person shall 44267  
also pay one and one-half times the amount of the deputy registrar 44268  
service fee specified in division (D) of section 4503.10 of the 44269  
Revised Code or the bureau of motor vehicles service fee specified 44270  
in division (G) of that section, as applicable. 44271

(ii) Division (A)(1)(b)(i) of this section does not apply to 44272  
a person receiving an apportioned license plate under the 44273  
international registration plan, or the owner of a commercial car 44274  
used solely in intrastate commerce, or the owner of a bus as 44275  
defined in section 4513.50 of the Revised Code. 44276

(2) No person applying for a multi-year registration under 44277  
division (A)(1) of this section is entitled to a refund of any 44278  
taxes or fees paid. 44279

(3) The registrar shall not issue to any applicant who has 44280  
been issued a final, nonappealable order under division (B) of 44281  
this section a multi-year registration or renewal thereof under 44282  
this division or rules adopted under it for any motor vehicle that 44283  
is required to be inspected under section 3704.14 of the Revised 44284  
Code the district of registration of which, as determined under 44285  
section 4503.10 of the Revised Code, is or is located in the 44286  
county named in the order. 44287

(B) Upon receipt from the director of environmental 44288  
protection of a notice issued under division (J) of section 44289  
3704.14 of the Revised Code indicating that an owner of a motor 44290  
vehicle that is required to be inspected under that section who 44291

obtained a multi-year registration for the vehicle under division 44292  
(A) of this section or rules adopted under that division has not 44293  
obtained an inspection certificate for the vehicle in accordance 44294  
with that section in a year intervening between the years of 44295  
issuance and expiration of the multi-year registration in which 44296  
the owner is required to have the vehicle inspected and obtain an 44297  
inspection certificate for it under division (F)(1)(a) of that 44298  
section, the registrar in accordance with Chapter 119. of the 44299  
Revised Code shall issue an order to the owner impounding the 44300  
certificate of registration and identification license plates for 44301  
the vehicle. The order also shall prohibit the owner from 44302  
obtaining or renewing a multi-year registration for any vehicle 44303  
that is required to be inspected under that section, the district 44304  
of registration of which is or is located in the same county as 44305  
the county named in the order during the number of years after 44306  
expiration of the current multi-year registration that equals the 44307  
number of years for which the current multi-year registration was 44308  
issued. 44309

An order issued under this division shall require the owner 44310  
to surrender to the registrar the certificate of registration and 44311  
license plates for the vehicle named in the order within five days 44312  
after its issuance. If the owner fails to do so within that time, 44313  
the registrar shall certify that fact to the county sheriff or 44314  
local police officials who shall recover the certificate of 44315  
registration and license plates for the vehicle. 44316

(C) Upon the occurrence of either of the following 44317  
circumstances, the registrar in accordance with Chapter 119. of 44318  
the Revised Code shall issue to the owner a modified order 44319  
rescinding the provisions of the order issued under division (B) 44320  
of this section impounding the certificate of registration and 44321  
license plates for the vehicle named in that original order: 44322

(1) Receipt from the director of environmental protection of 44323

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 44355  
county of residence, issues a certificate of title to the 44356  
applicant, the clerk shall transmit data related to the 44357  
transaction to the automated title processing system. 44358

(3) If a certificate of title previously has been issued for 44359  
a motor vehicle in this state, the application for a certificate 44360  
of title also shall be accompanied by that certificate of title 44361  
duly assigned, unless otherwise provided in this chapter. If a 44362  
certificate of title previously has not been issued for the motor 44363  
vehicle in this state, the application, unless otherwise provided 44364  
in this chapter, shall be accompanied by a manufacturer's or 44365  
importer's certificate or by a certificate of title of another 44366  
state from which the motor vehicle was brought into this state. If 44367  
the application refers to a motor vehicle last previously 44368  
registered in another state, the application also shall be 44369  
accompanied by the physical inspection certificate required by 44370  
section 4505.061 of the Revised Code. If the application is made 44371  
by two persons regarding a motor vehicle in which they wish to 44372  
establish joint ownership with right of survivorship, they may do 44373  
so as provided in section 2131.12 of the Revised Code. If the 44374  
applicant requests a designation of the motor vehicle in 44375  
beneficiary form so that upon the death of the owner of the motor 44376  
vehicle, ownership of the motor vehicle will pass to a designated 44377  
transfer-on-death beneficiary or beneficiaries, the applicant may 44378  
do so as provided in section 2131.13 of the Revised Code. A person 44379  
who establishes ownership of a motor vehicle that is transferable 44380  
on death in accordance with section 2131.13 of the Revised Code 44381  
may terminate that type of ownership or change the designation of 44382  
the transfer-on-death beneficiary or beneficiaries by applying for 44383  
a certificate of title pursuant to this section. The clerk shall 44384  
retain the evidence of title presented by the applicant and on 44385  
which the certificate of title is issued, except that, if an 44386  
application for a certificate of title is filed electronically by 44387

an electronic motor vehicle dealer on behalf of the purchaser of a 44388  
motor vehicle, the clerk shall retain the completed electronic 44389  
record to which the dealer converted the certificate of title 44390  
application and other required documents. The electronic motor 44391  
vehicle dealer shall ~~forward~~ retain the ~~actual~~ original title 44392  
application ~~and all other~~ documents ~~relating to the sale of the~~ 44393  
~~motor vehicle to any clerk within thirty days after the~~ 44394  
~~certificate of title is issued. The registrar, after consultation~~ 44395  
~~with the attorney general, shall adopt rules that govern the~~ 44396  
~~location at which, and the manner in which, are stored the actual~~ 44397  
~~application and all other documents relating to the sale of a~~ 44398  
~~motor vehicle when an electronic motor vehicle dealer files the~~ 44399  
~~application for a certificate of title electronically on behalf of~~ 44400  
~~the purchaser~~ for a period of time determined by the registrar and 44401  
shall make all of the documents available for inspection by the 44402  
registrar upon the registrar's request. The registrar shall make 44403  
the original application documents available to the attorney 44404  
general upon the request of the attorney general. 44405

The clerk shall use reasonable diligence in ascertaining 44406  
whether or not the facts in the application for a certificate of 44407  
title are true by checking the application and documents 44408  
accompanying it or the electronic record to which a dealer 44409  
converted the application and accompanying documents with the 44410  
records of motor vehicles in the clerk's office. If the clerk is 44411  
satisfied that the applicant is the owner of the motor vehicle and 44412  
that the application is in the proper form, the clerk, within five 44413  
business days after the application is filed, shall issue a 44414  
physical certificate of title over the clerk's signature and 44415  
sealed with the clerk's seal unless the applicant specifically 44416  
requests the clerk not to issue a physical certificate of title 44417  
and instead to issue an electronic certificate of title. For 44418  
purposes of the transfer of a certificate of title, if the clerk 44419  
is satisfied that the secured party has duly discharged a lien 44420

notation but has not canceled the lien notation with a clerk, the 44421  
clerk may cancel the lien notation on the automated title 44422  
processing system and notify the clerk of the county of origin. 44423

(4) In the case of the sale of a motor vehicle to a general 44424  
buyer or user by a dealer, by a motor vehicle leasing dealer 44425  
selling the motor vehicle to the lessee or, in a case in which the 44426  
leasing dealer subleased the motor vehicle, the sublessee, at the 44427  
end of the lease agreement or sublease agreement, or by a 44428  
manufactured home broker, the certificate of title shall be 44429  
obtained in the name of the buyer by the dealer, leasing dealer, 44430  
or manufactured home broker, as the case may be, upon application 44431  
signed by the buyer. The certificate of title shall be issued, or 44432  
the process of entering the certificate of title application 44433  
information into the automated title processing system if a 44434  
physical certificate of title is not to be issued shall be 44435  
completed, within five business days after the application for 44436  
title is filed with the clerk. If the buyer of the motor vehicle 44437  
previously leased the motor vehicle and is buying the motor 44438  
vehicle at the end of the lease pursuant to that lease, the 44439  
certificate of title shall be obtained in the name of the buyer by 44440  
the motor vehicle leasing dealer who previously leased the motor 44441  
vehicle to the buyer or by the motor vehicle leasing dealer who 44442  
subleased the motor vehicle to the buyer under a sublease 44443  
agreement. 44444

In all other cases, except as provided in section 4505.032 44445  
and division (D)(2) of section 4505.11 of the Revised Code, such 44446  
certificates shall be obtained by the buyer. 44447

(5)(a)(i) If the certificate of title is being obtained in 44448  
the name of the buyer by a motor vehicle dealer or motor vehicle 44449  
leasing dealer and there is a security interest to be noted on the 44450  
certificate of title, the dealer or leasing dealer shall submit 44451  
the application for the certificate of title and payment of the 44452

applicable tax to a clerk within seven business days after the 44453  
later of the delivery of the motor vehicle to the buyer or the 44454  
date the dealer or leasing dealer obtains the manufacturer's or 44455  
importer's certificate, or certificate of title issued in the name 44456  
of the dealer or leasing dealer, for the motor vehicle. Submission 44457  
of the application for the certificate of title and payment of the 44458  
applicable tax within the required seven business days may be 44459  
indicated by postmark or receipt by a clerk within that period. 44460

(ii) Upon receipt of the certificate of title with the 44461  
security interest noted on its face, the dealer or leasing dealer 44462  
shall forward the certificate of title to the secured party at the 44463  
location noted in the financing documents or otherwise specified 44464  
by the secured party. 44465

(iii) A motor vehicle dealer or motor vehicle leasing dealer 44466  
is liable to a secured party for a late fee of ten dollars per day 44467  
for each certificate of title application and payment of the 44468  
applicable tax that is submitted to a clerk more than seven 44469  
business days but less than twenty-one days after the later of the 44470  
delivery of the motor vehicle to the buyer or the date the dealer 44471  
or leasing dealer obtains the manufacturer's or importer's 44472  
certificate, or certificate of title issued in the name of the 44473  
dealer or leasing dealer, for the motor vehicle and, from then on, 44474  
twenty-five dollars per day until the application and applicable 44475  
tax are submitted to a clerk. 44476

(b) In all cases of transfer of a motor vehicle, the 44477  
application for certificate of title shall be filed within thirty 44478  
days after the assignment or delivery of the motor vehicle. If an 44479  
application for a certificate of title is not filed within the 44480  
period specified in division (A)(5)(b) of this section, the clerk 44481  
shall collect a fee of five dollars for the issuance of the 44482  
certificate, except that no such fee shall be required from a 44483  
motor vehicle salvage dealer, as defined in division (A) of 44484

section 4738.01 of the Revised Code, who immediately surrenders 44485  
the certificate of title for cancellation. The fee shall be in 44486  
addition to all other fees established by this chapter, and shall 44487  
be retained by the clerk. The registrar shall provide, on the 44488  
certificate of title form prescribed by section 4505.07 of the 44489  
Revised Code, language necessary to give evidence of the date on 44490  
which the assignment or delivery of the motor vehicle was made. 44491

(6) As used in division (A) of this section, "lease 44492  
agreement," "lessee," and "sublease agreement" have the same 44493  
meanings as in section 4505.04 of the Revised Code. 44494

(B) The clerk, except as provided in this section, shall 44495  
refuse to accept for filing any application for a certificate of 44496  
title and shall refuse to issue a certificate of title unless the 44497  
dealer or manufactured home broker or the applicant, in cases in 44498  
which the certificate shall be obtained by the buyer, submits with 44499  
the application payment of the tax levied by or pursuant to 44500  
Chapters 5739. and 5741. of the Revised Code based on the 44501  
purchaser's county of residence. Upon payment of the tax in 44502  
accordance with division (E) of this section, the clerk shall 44503  
issue a receipt prescribed by the registrar and agreed upon by the 44504  
tax commissioner showing payment of the tax or a receipt issued by 44505  
the commissioner showing the payment of the tax. When submitting 44506  
payment of the tax to the clerk, a dealer shall retain any 44507  
discount to which the dealer is entitled under section 5739.12 of 44508  
the Revised Code. 44509

For receiving and disbursing such taxes paid to the clerk by 44510  
a resident of the clerk's county, the clerk may retain a poundage 44511  
fee of one and one one-hundredth per cent, and the clerk shall pay 44512  
the poundage fee into the certificate of title administration fund 44513  
created by section 325.33 of the Revised Code. The clerk shall not 44514  
retain a poundage fee from payments of taxes by persons who do not 44515  
reside in the clerk's county. 44516

A clerk, however, may retain from the taxes paid to the clerk 44517  
an amount equal to the poundage fees associated with certificates 44518  
of title issued by other clerks of courts of common pleas to 44519  
applicants who reside in the first clerk's county. The registrar, 44520  
in consultation with the tax commissioner and the clerks of the 44521  
courts of common pleas, shall develop a report from the automated 44522  
title processing system that informs each clerk of the amount of 44523  
the poundage fees that the clerk is permitted to retain from those 44524  
taxes because of certificates of title issued by the clerks of 44525  
other counties to applicants who reside in the first clerk's 44526  
county. 44527

In the case of casual sales of motor vehicles, as defined in 44528  
section 4517.01 of the Revised Code, the price for the purpose of 44529  
determining the tax shall be the purchase price on the assigned 44530  
certificate of title executed by the seller and filed with the 44531  
clerk by the buyer on a form to be prescribed by the registrar, 44532  
which shall be prima-facie evidence of the amount for the 44533  
determination of the tax. 44534

(C)(1) If the transferor indicates on the certificate of 44535  
title that the odometer reflects mileage in excess of the designed 44536  
mechanical limit of the odometer, the clerk shall enter the phrase 44537  
"exceeds mechanical limits" following the mileage designation. If 44538  
the transferor indicates on the certificate of title that the 44539  
odometer reading is not the actual mileage, the clerk shall enter 44540  
the phrase "nonactual: warning - odometer discrepancy" following 44541  
the mileage designation. The clerk shall use reasonable care in 44542  
transferring the information supplied by the transferor, but is 44543  
not liable for any errors or omissions of the clerk or those of 44544  
the clerk's deputies in the performance of the clerk's duties 44545  
created by this chapter. 44546

The registrar shall prescribe an affidavit in which the 44547  
transferor shall swear to the true selling price and, except as 44548

provided in this division, the true odometer reading of the motor 44549  
vehicle. The registrar may prescribe an affidavit in which the 44550  
seller and buyer provide information pertaining to the odometer 44551  
reading of the motor vehicle in addition to that required by this 44552  
section, as such information may be required by the United States 44553  
secretary of transportation by rule prescribed under authority of 44554  
subchapter IV of the "Motor Vehicle Information and Cost Savings 44555  
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 44556

(2) Division (C)(1) of this section does not require the 44557  
giving of information concerning the odometer and odometer reading 44558  
of a motor vehicle when ownership of a motor vehicle is being 44559  
transferred as a result of a bequest, under the laws of intestate 44560  
succession, to a survivor pursuant to section 2106.18, 2131.12, or 44561  
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 44562  
beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised 44563  
Code, or in connection with the creation of a security interest. 44564

(D) When the transfer to the applicant was made in some other 44565  
state or in interstate commerce, the clerk, except as provided in 44566  
this section, shall refuse to issue any certificate of title 44567  
unless the tax imposed by or pursuant to Chapter 5741. of the 44568  
Revised Code based on the purchaser's county of residence has been 44569  
paid as evidenced by a receipt issued by the tax commissioner, or 44570  
unless the applicant submits with the application payment of the 44571  
tax. Upon payment of the tax in accordance with division (E) of 44572  
this section, the clerk shall issue a receipt prescribed by the 44573  
registrar and agreed upon by the tax commissioner, showing payment 44574  
of the tax. 44575

For receiving and disbursing such taxes paid to the clerk by 44576  
a resident of the clerk's county, the clerk may retain a poundage 44577  
fee of one and one one-hundredth per cent. The clerk shall not 44578  
retain a poundage fee from payments of taxes by persons who do not 44579  
reside in the clerk's county. 44580

A clerk, however, may retain from the taxes paid to the clerk 44581  
an amount equal to the poundage fees associated with certificates 44582  
of title issued by other clerks of courts of common pleas to 44583  
applicants who reside in the first clerk's county. The registrar, 44584  
in consultation with the tax commissioner and the clerks of the 44585  
courts of common pleas, shall develop a report from the automated 44586  
title processing system that informs each clerk of the amount of 44587  
the poundage fees that the clerk is permitted to retain from those 44588  
taxes because of certificates of title issued by the clerks of 44589  
other counties to applicants who reside in the first clerk's 44590  
county. 44591

When the vendor is not regularly engaged in the business of 44592  
selling motor vehicles, the vendor shall not be required to 44593  
purchase a vendor's license or make reports concerning those 44594  
sales. 44595

(E) The clerk shall accept any payment of a tax in cash, or 44596  
by cashier's check, certified check, draft, money order, or teller 44597  
check issued by any insured financial institution payable to the 44598  
clerk and submitted with an application for a certificate of title 44599  
under division (B) or (D) of this section. The clerk also may 44600  
accept payment of the tax by corporate, business, or personal 44601  
check, credit card, electronic transfer or wire transfer, debit 44602  
card, or any other accepted form of payment made payable to the 44603  
clerk. The clerk may require bonds, guarantees, or letters of 44604  
credit to ensure the collection of corporate, business, or 44605  
personal checks. Any service fee charged by a third party to a 44606  
clerk for the use of any form of payment may be paid by the clerk 44607  
from the certificate of title administration fund created in 44608  
section 325.33 of the Revised Code, or may be assessed by the 44609  
clerk upon the applicant as an additional fee. Upon collection, 44610  
the additional fees shall be paid by the clerk into that 44611  
certificate of title administration fund. 44612

The clerk shall make a good faith effort to collect any 44613  
payment of taxes due but not made because the payment was returned 44614  
or dishonored, but the clerk is not personally liable for the 44615  
payment of uncollected taxes or uncollected fees. The clerk shall 44616  
notify the tax commissioner of any such payment of taxes that is 44617  
due but not made and shall furnish the information to the 44618  
commissioner that the commissioner requires. The clerk shall 44619  
deduct the amount of taxes due but not paid from the clerk's 44620  
periodic remittance of tax payments, in accordance with procedures 44621  
agreed upon by the tax commissioner. The commissioner may collect 44622  
taxes due by assessment in the manner provided in section 5739.13 44623  
of the Revised Code. 44624

Any person who presents payment that is returned or 44625  
dishonored for any reason is liable to the clerk for payment of a 44626  
penalty over and above the amount of the taxes due. The clerk 44627  
shall determine the amount of the penalty, and the penalty shall 44628  
be no greater than that amount necessary to compensate the clerk 44629  
for banking charges, legal fees, or other expenses incurred by the 44630  
clerk in collecting the returned or dishonored payment. The 44631  
remedies and procedures provided in this section are in addition 44632  
to any other available civil or criminal remedies. Subsequently 44633  
collected penalties, poundage fees, and title fees, less any title 44634  
fee due the state, from returned or dishonored payments collected 44635  
by the clerk shall be paid into the certificate of title 44636  
administration fund. Subsequently collected taxes, less poundage 44637  
fees, shall be sent by the clerk to the treasurer of state at the 44638  
next scheduled periodic remittance of tax payments, with 44639  
information as the commissioner may require. The clerk may abate 44640  
all or any part of any penalty assessed under this division. 44641

(F) In the following cases, the clerk shall accept for filing 44642  
an application and shall issue a certificate of title without 44643  
requiring payment or evidence of payment of the tax: 44644

(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; 44645  
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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; 44648  
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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; 44650  
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(4) When the purchaser is the federal government; 44653

(5) When the motor vehicle was purchased outside this state for use outside this state; 44654  
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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. 44656  
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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. 44663  
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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 44667  
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dollars, or both. All transfers are audited by the department of 44675  
taxation. The seller and buyer must provide any information 44676  
requested by the department of taxation. The buyer may be assessed 44677  
any additional tax found to be due." 44678

(H) For sales of manufactured homes or mobile homes occurring 44679  
on or after January 1, 2000, the clerk shall accept for filing, 44680  
pursuant to Chapter 5739. of the Revised Code, an application for 44681  
a certificate of title for a manufactured home or mobile home 44682  
without requiring payment of any tax pursuant to section 5739.02, 44683  
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 44684  
issued by the tax commissioner showing payment of the tax. For 44685  
sales of manufactured homes or mobile homes occurring on or after 44686  
January 1, 2000, the applicant shall pay to the clerk an 44687  
additional fee of five dollars for each certificate of title 44688  
issued by the clerk for a manufactured or mobile home pursuant to 44689  
division (H) of section 4505.11 of the Revised Code and for each 44690  
certificate of title issued upon transfer of ownership of the 44691  
home. The clerk shall credit the fee to the county certificate of 44692  
title administration fund, and the fee shall be used to pay the 44693  
expenses of archiving those certificates pursuant to division (A) 44694  
of section 4505.08 and division (H)(3) of section 4505.11 of the 44695  
Revised Code. The tax commissioner shall administer any tax on a 44696  
manufactured or mobile home pursuant to Chapters 5739. and 5741. 44697  
of the Revised Code. 44698

(I) Every clerk shall have the capability to transact by 44699  
electronic means all procedures and transactions relating to the 44700  
issuance of motor vehicle certificates of title that are described 44701  
in the Revised Code as being accomplished by electronic means. 44702

**Sec. 4506.14.** (A) Commercial driver's licenses shall expire 44703  
as follows: 44704

(1) Except as provided in division (A)(3) of this section, 44705

each such license issued to replace an operator's or chauffeur's license shall expire on the original expiration date of the operator's or chauffeur's license and, upon renewal, shall expire on the licensee's birthday in the fourth year after the date of issuance.

(2) Except as provided in division (A)(3) of this section, each such license issued as an original license to a person whose residence is in this state shall expire on the licensee's birthday in the fourth year after the date of issuance, and each such license issued to a person whose temporary residence is in this state shall expire in accordance with rules adopted by the registrar of motor vehicles. A license issued to a person with a temporary residence in this state is nonrenewable, but may be replaced with a new license within ninety days prior to its expiration upon the applicant's compliance with all applicable requirements.

(3) Each such license issued to replace the operator's or 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 44738  
expiration upon payment of the fees required by section 4506.08 of 44739  
the Revised Code. Each person applying for renewal of a commercial 44740  
driver's license shall complete the application form prescribed by 44741  
section 4506.07 of the Revised Code and shall provide all 44742  
certifications required. If the person wishes to retain an 44743  
endorsement authorizing the person to transport hazardous 44744  
materials, the person shall take and successfully complete the 44745  
written test for the endorsement and shall submit to any 44746  
background check required by federal law. 44747

(D) Each person licensed as a driver under this chapter shall 44748  
notify the registrar of any change in the person's address within 44749  
ten days following that change. The notification shall be in 44750  
writing on a form provided by the registrar and shall include the 44751  
full name, date of birth, license number, county of residence, 44752  
social security number, and new address of the person. 44753

**Sec. 4506.15.** No person shall do any of the following: 44754

(A) Drive a commercial motor vehicle while having a 44755  
measurable or detectable amount of alcohol or of a controlled 44756  
substance in ~~his~~ the person's blood, breath, or urine; 44757

(B) Drive a commercial motor vehicle while having an alcohol 44758  
concentration of four-hundredths of one per cent or more; 44759

(C) Drive a commercial motor vehicle while under the 44760  
influence of a controlled substance; 44761

(D) Knowingly leave the scene of an accident involving a 44762  
commercial motor vehicle driven by the person; 44763

(E) Use a commercial motor vehicle in the commission of a 44764  
felony; 44765

(F) Refuse to submit to a test under section 4506.17 of the 44766  
Revised Code; 44767

(G) Violate an out-of-service order issued under this chapter;	44768 44769
(H) Violate any prohibition described in divisions (B) to (G) of this section while transporting hazardous materials;	44770 44771
<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>	44772 44773 44774 44775
<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>	44776 44777 44778 44779
<b>Sec. 4506.16.</b> (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.	44780 44781 44782 44783 44784 44785
(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:	44786 44787
(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, <del>in addition to any other penalty imposed by the Revised Code;</del>	44788 44789 44790 44791
<del>(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;</del>	44792 44793 44794 44795
<del>(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</del>	44796 44797

~~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;	44830
(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, <del>in addition to any other penalty imposed by the Revised Code.</del>	44831 44832 44833 44834 44835 44836
(C) For the purposes of this section, conviction of a violation for which disqualification is required may be evidenced by any of the following:	44837 44838 44839
(1) A judgment entry of a court of competent jurisdiction in this or any other state;	44840 44841
(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers;	44842 44843
(3) A computer record obtained from or through the commercial driver's license information system;	44844 44845
(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.	44846 44847 44848
(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.	44849 44850 44851
(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.	44852 44853 44854
(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) <del>(3)</del> , (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	44855 44856 44857 44858 44859

disqualification is to be imposed, and that the driver may request 44860  
a hearing within thirty days of the mailing of the notice to show 44861  
cause why the driver should not be disqualified from operating a 44862  
commercial motor vehicle. If a request for such a hearing is not 44863  
made within thirty days of the mailing of the notice, the order of 44864  
disqualification is final. The registrar may designate hearing 44865  
examiners who, after affording all parties reasonable notice, 44866  
shall conduct a hearing to determine whether the disqualification 44867  
order is supported by reliable evidence. The registrar shall adopt 44868  
rules to implement this division. 44869

(G) Any person who is disqualified from operating a 44870  
commercial motor vehicle under this section may apply to the 44871  
registrar for a driver's license to operate a motor vehicle other 44872  
than a commercial motor vehicle, provided the person's commercial 44873  
driver's license is not otherwise suspended or revoked. A person 44874  
whose commercial driver's license is suspended or revoked shall 44875  
not apply to the registrar for or receive a driver's license under 44876  
Chapter 4507. of the Revised Code during the period of suspension 44877  
or revocation. 44878

(H) The disqualifications imposed under this section are in 44879  
addition to any other penalty imposed by the Revised Code. 44880

**Sec. 4506.20.** (A) Each employer shall require every applicant 44881  
for employment as a driver of a commercial motor vehicle to 44882  
provide the information specified in section 4506.20 of the 44883  
Revised Code. 44884

(B) No employer shall knowingly permit or authorize any 44885  
driver employed by ~~him~~ the employer to drive a commercial motor 44886  
vehicle during any period in which any of the following apply: 44887

(1) The driver's commercial driver's license is suspended, 44888  
revoked, or canceled by any state or a foreign jurisdiction; 44889

(2) The driver has lost ~~his~~ the privilege to drive, or 44890  
currently is disqualified from driving, a commercial motor vehicle 44891  
in any state or foreign jurisdiction; 44892

(3) The driver is subject to an out-of-service order in any 44893  
state or foreign jurisdiction; 44894

(4) The driver has more than one driver's license. 44895

(C) No employer shall knowingly permit or authorize a driver 44896  
to operate a commercial motor vehicle in violation of section 44897  
4506.15 of the Revised Code. 44898

(D) Whoever violates division (C) of this section may be 44899  
assessed a fine not to exceed ten thousand dollars. 44900

**Sec. 4506.24.** (A) A restricted commercial driver's license 44901  
and waiver for farm-related service industries may be issued by 44902  
the registrar of motor vehicles to allow a person to operate a 44903  
commercial motor vehicle during seasonal periods determined by the 44904  
registrar and subject to the restrictions set forth in this 44905  
section. 44906

(B) Upon receiving an application for a restricted commercial 44907  
driver's license under section 4506.07 of the Revised Code and 44908  
payment of a fee as provided in section 4506.08 of the Revised 44909  
Code, the registrar may issue such license to any person who meets 44910  
all of the following requirements: 44911

(1) Has at least one year of driving experience in any type 44912  
of vehicle; 44913

(2) Holds a valid driver's license, other than a restricted 44914  
license, issued under Chapter 4507. of the Revised Code; 44915

(3) Certifies that during the ~~one-year~~ two-year period 44916  
immediately preceding application, all of the following apply: 44917

(a) The person has not had more than one license; 44918

(b) The person has not had any license suspended, revoked, or canceled; 44919  
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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; 44921  
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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. 44924  
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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: 44928  
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(a) Custom harvesters; 44932

(b) Farm retail outlets and suppliers; 44933

(c) Agri-chemical business; 44934

(d) Livestock feeders. 44935

(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 44936  
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motor vehicle is being operated by the holder of the license and 44949  
waiver. 44950

(D) The holder of a restricted commercial driver's license 44951  
and valid waiver for farm-related service industries may operate a 44952  
class B or C commercial motor vehicle subject to all of the 44953  
following restrictions: 44954

(1) The commercial motor vehicle is operated within a 44955  
distance of no more than one hundred fifty miles of the employer's 44956  
place of business or the farm currently being served; 44957

(2) The operation of the commercial motor vehicle does not 44958  
involve transporting hazardous materials for which placarding is 44959  
required, except as follows: 44960

(a) Diesel fuel in quantities of one thousand gallons or 44961  
less; 44962

(b) Liquid fertilizers in vehicles or implements of husbandry 44963  
with total capacities of three thousand gallons or less; 44964

(c) Solid fertilizers that are not transported with any 44965  
organic substance. 44966

(E) Except as otherwise provided in this section an applicant 44967  
for or holder of a restricted commercial driver's license and 44968  
waiver for farm-related service industries is subject to the 44969  
provisions of this chapter. Divisions (A)(4) and (B)(1) of section 44970  
4506.07 and sections 4506.09 and 4506.10 of the Revised Code do 44971  
not apply to an applicant for a restricted commercial driver's 44972  
license and waiver. 44973

**Sec. 4508.08.** There is hereby created in the department of 44974  
public safety the motorcycle safety and education program. The 44975  
director of public safety shall administer the program in 44976  
accordance with the following guidelines: 44977

(A) The program shall include courses of instruction 44978

conducted at vocational schools, community colleges, or other 44979  
suitable locations, by instructors who have obtained certification 44980  
in the manner and form prescribed by the director. The courses 44981  
shall meet standards established in rules adopted by the 44982  
~~motorcycle safety foundation for courses of instruction department~~ 44983  
~~in motorcycle safety and education accordance with Chapter 119. of~~ 44984  
the Revised Code. The courses may include instruction for novice 44985  
motorcycle operators, instruction in motorist awareness and 44986  
alcohol and drug awareness, and any other kind of instruction the 44987  
director considers appropriate. A reasonable tuition fee ~~of not~~ 44988  
~~more than twenty five dollars per student, as determined by the~~ 44989  
director, may be charged ~~for each course if sufficient funds are~~ 44990  
~~not available in. The director may authorize private organizations~~ 44991  
or corporations to offer courses without tuition fee restrictions, 44992  
but such entities are not eligible for reimbursement of expenses 44993  
or subsidies from the motorcycle safety and education fund created 44994  
in section 4501.13 of the Revised Code ~~to pay all of the costs of~~ 44995  
~~conducting the motorcycle safety and education program.~~ 44996

(B) In addition to courses of instruction, the program may 44997  
include provisions for equipment purchases, marketing and 44998  
promotion, improving motorcycle license testing procedures, and 44999  
any other provisions the director considers appropriate. 45000

(C) The director shall evaluate the program every two years 45001  
and shall periodically inspect the facilities, equipment, and 45002  
procedures used in the courses of instruction. 45003

(D) The director shall appoint at least one training 45004  
specialist who shall oversee the operation of the program, 45005  
establish courses of instruction, and supervise instructors. The 45006  
training specialist shall be a licensed motorcycle operator and 45007  
shall obtain certification in the manner and form prescribed by 45008  
the director. 45009

(E) The director may contract with other public agencies or 45010

with private organizations or corporations to assist in 45011  
administering the program. 45012

(F) Notwithstanding any provision of Chapter 102. of the 45013  
Revised Code, the director, in order to administer the program, 45014  
may participate in a motorcycle manufacturer's motorcycle loan 45015  
program. 45016

(G) The director shall contract with an insurance company or 45017  
companies authorized to do business in this state to purchase a 45018  
policy or policies of insurance with respect to the establishment 45019  
or administration, or any other aspect of the operation of the 45020  
program. 45021

**Sec. 4509.60.** Upon acceptance of a bond with individual 45022  
sureties, the registrar of motor vehicles shall forward to the 45023  
county recorder of the county in which the sureties' real estate 45024  
is located a notice of such deposit and pay the recorder a base 45025  
fee of five dollars for filing and indexing the notice and a 45026  
housing trust fund fee of five dollars pursuant to section 317.36 45027  
of the Revised Code. The recorder shall receive and file such 45028  
notice and keep and index the same. Such bond shall constitute a 45029  
lien in favor of the state upon the real estate so scheduled or 45030  
any surety, and the lien shall exist in favor of any holder of a 45031  
final judgment against the person who has filed the bond, for 45032  
damages, including damages for care and loss of services, because 45033  
of bodily injury to or death of any person, or for damage because 45034  
of injury to property, including the loss of use thereof, 45035  
resulting from the ownership, maintenance, or use of a motor 45036  
vehicle after such bond was filed, upon the filing of notice to 45037  
that effect by the registrar with the county recorder as provided 45038  
in this section. 45039

**Sec. 4511.198.** If the United States congress repeals the 45040

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: 45072

(A) A vehicle or trackless trolley shall be driven, as nearly 45073  
as is practicable, entirely within a single lane or line of 45074  
traffic and shall not be moved from such lane or line until the 45075  
driver has first ascertained that such movement can be made with 45076  
safety. 45077

(B) Upon a roadway which is divided into three lanes and 45078  
provides for two-way movement of traffic, a vehicle or trackless 45079  
trolley shall not be driven in the center lane except when 45080  
overtaking and passing another vehicle or trackless trolley where 45081  
the roadway is clearly visible and such center lane is clear of 45082  
traffic within a safe distance, or when preparing for a left turn, 45083  
or where such center lane is at the time allocated exclusively to 45084  
traffic moving in the direction the vehicle or trackless trolley 45085  
is proceeding and is posted with signs to give notice of such 45086  
allocation. 45087

(C) Official signs may be erected directing specified traffic 45088  
to use a designated lane or designating those lanes to be used by 45089  
traffic moving in a particular direction regardless of the center 45090  
of the roadway, or restricting the use of a particular lane to 45091  
only buses during certain hours or during all hours, and drivers 45092  
of vehicles and trackless trolleys shall obey the directions of 45093  
such signs. 45094

(D) Official traffic control devices may be installed 45095  
prohibiting the changing of lanes on sections of roadway and 45096  
drivers of vehicles shall obey the directions of every such 45097  
device. 45098

**Sec. 4511.62.** (A)(1) Whenever any person driving a vehicle or 45099  
trackless trolley approaches a railroad grade crossing, the person 45100  
shall stop within fifty feet, but not less than fifteen feet from 45101  
the nearest rail of the railroad if any of the following 45102

circumstances exist at the crossing:	45103
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.	45104 45105
(b) A crossing gate is lowered.	45106
(c) A flagperson gives or continues to give a signal of the approach or passage of a train.	45107 45108
(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.	45109 45110 45111 45112 45113 45114
(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.	45115 45116
<u>(f) There is insufficient undercarriage clearance to safely negotiate the crossing.</u>	45117 45118
(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 <del>(e)</del> <u>(f)</u> of this section exist at the crossing.	45119 45120 45121 45122
(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.	45123 45124 45125 45126 45127
<b>Sec. 4511.63.</b> (A) The operator <del>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</del> <u>transporting material required to</u>	45128 45129 45130 45131 45132

~~constitute a hazard~~ be placarded under 49 CFR Parts 100-185, 45133  
before crossing at grade any track of a railroad, shall stop the 45134  
vehicle ~~or trackless trolley~~ and, while so stopped, shall listen 45135  
through an open door or open window and look in both directions 45136  
along the track for any approaching train, and for signals 45137  
indicating the approach of a train, and shall proceed only upon 45138  
exercising due care after stopping, looking, and listening as 45139  
required by this section. Upon proceeding, the operator of such a 45140  
vehicle shall cross only in a gear that will ensure there will be 45141  
no necessity for changing gears while traversing the crossing and 45142  
shall not shift gears while crossing the tracks. 45143

(B) This section does not apply at any ~~of the following:~~ 45144

~~(1) Street~~ street railway grade crossings within a municipal 45145  
corporation, or to abandoned tracks, spur tracks, side tracks, and 45146  
industrial tracks when the public utilities commission has 45147  
authorized and approved the crossing of the tracks without making 45148  
the stop required by this section. 45149

~~(2) Through June 30, 1995, a street railway grade crossing~~ 45150  
~~where out of service signs are posted in accordance with section~~ 45151  
~~4955.37 of the Revised Code.~~ 45152

(C) This section applies to any vehicle used for the 45153  
transportation of pupils to and from a school or school-related 45154  
function if the vehicle is owned or operated by, or operated under 45155  
contract with, a public or nonpublic school. 45156

(D) For purposes of this section, "bus" means any vehicle 45157  
originally designed by its manufacturer to transport sixteen or 45158  
more passengers, including the driver, or carries sixteen or more 45159  
passengers, including the driver. 45160

**Sec. 4519.55.** Application for a certificate of title for an 45161  
off-highway motorcycle or all-purpose vehicle shall be made upon a 45162

form prescribed by the registrar of motor vehicles and shall be 45163  
sworn to before a notary public or other officer empowered to 45164  
administer oaths. The application shall be filed with the clerk of 45165  
any court of common pleas. An application for a certificate of 45166  
title may be filed electronically by any electronic means approved 45167  
by the registrar in any county with the clerk of the court of 45168  
common pleas of that county. 45169

If an application for a certificate of title is filed 45170  
electronically by an electronic dealer on behalf of the purchaser 45171  
of an off-highway motorcycle or all-purpose vehicle, the clerk 45172  
shall retain the completed electronic record to which the dealer 45173  
converted the certificate of title application and other required 45174  
documents. The electronic dealer shall ~~forward~~ retain the ~~actual~~ 45175  
original title application and ~~all other~~ documents ~~relating to the~~ 45176  
~~sale of the off highway motorcycle or all purpose vehicle to any~~ 45177  
~~clerk within thirty days after the certificate of title is issued.~~ 45178  
~~The registrar, after consultation with the attorney general, shall~~ 45179  
~~adopt rules that govern the location at which, and the manner in~~ 45180  
~~which, are stored the actual application and all other documents~~ 45181  
~~relating to the sale of an off highway motorcycle or all purpose~~ 45182  
~~vehicle when an electronic dealer files the application for a~~ 45183  
~~certificate of title electronically on behalf of the purchaser for~~ 45184  
~~a period of time determined by the registrar and shall make all of~~ 45185  
~~the documents available for inspection by the registrar upon the~~ 45186  
~~registrar's request. The registrar shall make the original~~ 45187  
~~application documents available to the attorney general upon the~~ 45188  
~~request of the attorney general.~~ 45189

The application shall be accompanied by the fee prescribed in 45190  
section 4519.59 of the Revised Code. The fee shall be retained by 45191  
the clerk who issues the certificate of title and shall be 45192  
distributed in accordance with that section. If a clerk of a court 45193  
of common pleas, other than the clerk of the court of common pleas 45194

of an applicant's county of residence, issues a certificate of 45195  
title to the applicant, the clerk shall transmit data related to 45196  
the transaction to the automated title processing system. 45197

If a certificate of title previously has been issued for an 45198  
off-highway motorcycle or all-purpose vehicle, the application 45199  
also shall be accompanied by the certificate of title duly 45200  
assigned, unless otherwise provided in this chapter. If a 45201  
certificate of title previously has not been issued for the 45202  
off-highway motorcycle or all-purpose vehicle, the application, 45203  
unless otherwise provided in this chapter, shall be accompanied by 45204  
a manufacturer's or importer's certificate; by a sworn statement 45205  
of ownership; or by a certificate of title, bill of sale, or other 45206  
evidence of ownership required by law of another state from which 45207  
the off-highway motorcycle or all-purpose vehicle was brought into 45208  
this state. The registrar, in accordance with Chapter 119. of the 45209  
Revised Code, shall prescribe the types of additional 45210  
documentation sufficient to establish proof of ownership, 45211  
including, but not limited to, receipts from the purchase of parts 45212  
or components, photographs, and affidavits of other persons. 45213

For purposes of the transfer of a certificate of title, if 45214  
the clerk is satisfied that a secured party has duly discharged a 45215  
lien notation but has not canceled the lien notation with a clerk, 45216  
the clerk may cancel the lien notation on the automated title 45217  
processing system and notify the clerk of the county of origin. 45218

In the case of the sale of an off-highway motorcycle or 45219  
all-purpose vehicle by a dealer to a general purchaser or user, 45220  
the certificate of title shall be obtained in the name of the 45221  
purchaser by the dealer upon application signed by the purchaser. 45222  
In all other cases, the certificate shall be obtained by the 45223  
purchaser. In all cases of transfer of an off-highway motorcycle 45224  
or all-purpose vehicle, the application for certificate of title 45225  
shall be filed within thirty days after the later of the date of 45226

purchase or assignment of ownership of the off-highway motorcycle 45227  
or all-purpose vehicle. If the application for certificate of 45228  
title is not filed within thirty days after the later of the date 45229  
of purchase or assignment of ownership of the off-highway 45230  
motorcycle or all-purpose vehicle, the clerk shall charge a late 45231  
filing fee of five dollars in addition to the fee prescribed by 45232  
section 4519.59 of the Revised Code. The clerk shall retain the 45233  
entire amount of each late filing fee. 45234

Except in the case of an off-highway motorcycle or 45235  
all-purpose vehicle purchased prior to July 1, 1999, the clerk 45236  
shall refuse to accept an application for certificate of title 45237  
unless the applicant either tenders with the application payment 45238  
of all taxes levied by or pursuant to Chapter 5739. or 5741. of 45239  
the Revised Code based on the purchaser's county of residence, or 45240  
submits either of the following: 45241

(A) A receipt issued by the tax commissioner or a clerk of 45242  
courts showing payment of the tax; 45243

(B) An exemption certificate, in any form prescribed by the 45244  
tax commissioner, that specifies why the purchase is not subject 45245  
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 45246

Payment of the tax shall be made in accordance with division 45247  
(E) of section 4505.06 of the Revised Code and any rules issued by 45248  
the tax commissioner. When a dealer submits payment of the tax to 45249  
the clerk, the dealer shall retain any discount to which the 45250  
dealer is entitled under section 5739.12 of the Revised Code. The 45251  
clerk shall issue a receipt in the form prescribed by the tax 45252  
commissioner to any applicant who tenders payment of the tax with 45253  
the application for a certificate of title. If the application for 45254  
a certificate of title is for an off-highway motorcycle or 45255  
all-purpose vehicle purchased prior to July 1, 1999, the clerk 45256  
shall accept the application without payment of the taxes levied 45257  
by or pursuant to Chapter 5739. or 5741. of the Revised Code or 45258

presentation of either of the items listed in division (A) or (B) 45259  
of this section. 45260

For receiving and disbursing such taxes paid to the clerk by 45261  
a resident of the clerk's county, the clerk may retain a poundage 45262  
fee of one and one-hundredth per cent of the taxes collected, 45263  
which shall be paid into the certificate of title administration 45264  
fund created by section 325.33 of the Revised Code. The clerk 45265  
shall not retain a poundage fee from payments of taxes by persons 45266  
who do not reside in the clerk's county. 45267

A clerk, however, may retain from the taxes paid to the clerk 45268  
an amount equal to the poundage fees associated with certificates 45269  
of title issued by other clerks of courts of common pleas to 45270  
applicants who reside in the first clerk's county. The registrar, 45271  
in consultation with the tax commissioner and the clerks of the 45272  
courts of common pleas, shall develop a report from the automated 45273  
title processing system that informs each clerk of the amount of 45274  
the poundage fees that the clerk is permitted to retain from those 45275  
taxes because of certificates of title issued by the clerks of 45276  
other counties to applicants who reside in the first clerk's 45277  
county. 45278

In the case of casual sales of off-highway motorcycles or 45279  
all-purpose vehicles that are subject to the tax imposed by 45280  
Chapter 5739. or 5741. of the Revised Code, the purchase price for 45281  
the purpose of determining the tax shall be the purchase price on 45282  
an affidavit executed and filed with the clerk by the seller on a 45283  
form to be prescribed by the registrar, which shall be prima-facie 45284  
evidence of the price for the determination of the tax. 45285

In addition to the information required by section 4519.57 of 45286  
the Revised Code, each certificate of title shall contain in bold 45287  
lettering the following notification and statements: "WARNING TO 45288  
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 45289  
law to state the true selling price. A false statement is in 45290

violation of section 2921.13 of the Revised Code and is punishable 45291  
by six months imprisonment or a fine of up to one thousand 45292  
dollars, or both. All transfers are audited by the department of 45293  
taxation. The seller and buyer must provide any information 45294  
requested by the department of taxation. The buyer may be assessed 45295  
any additional tax found to be due." 45296

The clerk shall forward all payments of taxes, less poundage 45297  
fees, to the treasurer of state in a manner to be prescribed by 45298  
the tax commissioner and shall furnish information to the 45299  
commissioner as the commissioner may require. 45300

Every clerk shall have the capability to transact by 45301  
electronic means all procedures and transactions relating to the 45302  
issuance of certificates of title for off-highway motorcycles and 45303  
all-purpose vehicles that are described in the Revised Code as 45304  
being accomplished by electronic means. 45305

**Sec. 4707.071.** (A) On May 1, 1991, all persons licensed as 45306  
auction companies under former section 4707.071 of the Revised 45307  
Code shall comply with all provisions of this chapter that are 45308  
applicable to auctioneers except as provided in divisions (B) and 45309  
(C) of this section. Such persons, however, do not have to serve 45310  
an apprenticeship or attend a course of study under section 45311  
4707.09 of the Revised Code or submit to an examination under 45312  
section 4707.08 of the Revised Code as long as they do not engage 45313  
in the calling for, recognition of, and the acceptance of, offers 45314  
for the purchase of personal property at auction and do not 45315  
conduct auctions at any location other than the definite place of 45316  
business required in section 4707.14 of the Revised Code. 45317

(B) The principal owner of each auction company ~~which~~ that is 45318  
licensed as of May 1, 1991, who pays the annual renewal fee 45319  
specified in division ~~(A)~~ (B) of section 4707.10 of the Revised 45320  
Code during the first renewal period following May 1, 1991, shall 45321

be issued a special auctioneer's license, for the sale of personal 45322  
property subject to division (A) of this section. Each principal 45323  
owner shall apply for an annual license. In applying for an annual 45324  
license, each person licensed as an auction company on May 1, 45325  
1991, shall designate an individual as principal owner by 45326  
submitting documentation substantiating that the individual is in 45327  
fact the principal owner and shall identify a definite place of 45328  
business as required in section 4707.14 of the Revised Code. A 45329  
person licensed as an auctioneer shall not be entitled to a 45330  
special auctioneer's license. 45331

(C) A special auctioneer's license issued under this section 45332  
to the principal owner of a former auction company does not 45333  
entitle the principal owner or former auction company to conduct 45334  
auctions at any location other than the definite place of business 45335  
required in section 4707.14 of the Revised Code. Notwithstanding 45336  
section 4707.10 of the Revised Code, the department of agriculture 45337  
shall not issue a new special auctioneer's license if the definite 45338  
place of business identified by the licensee in the licensee's 45339  
initial application for a special auctioneer license has changed 45340  
or if the name under which the licensee is doing business has 45341  
changed. No person other than an owner, officer, member, or agent 45342  
of the former auction company who personally has passed the 45343  
examination prescribed in section 4707.08 of the Revised Code and 45344  
been licensed as an auctioneer shall engage in the calling for, 45345  
recognition of, and the acceptance of, offers for the purchase of 45346  
real or personal property, goods, or chattels at auction in 45347  
connection with a former auction company that has been issued a 45348  
special auctioneer's license. 45349

(D) A person licensed as a special auctioneer shall not 45350  
engage in the sale of real property at auction. 45351

**Sec. 4707.072.** (A) For purposes of this section, the 45352

department of agriculture shall adopt rules in accordance with 45353  
section 4707.19 of the Revised Code prescribing the fee that a 45354  
license applicant must pay. Until those rules are adopted, a 45355  
license applicant shall pay the fee established in this section. 45356

~~(B)~~ The department ~~of agriculture~~ may grant one-auction 45357  
licenses to any nonresident person deemed qualified by the 45358  
department. Any person who applies for a one-auction license shall 45359  
attest, on forms provided by the department, and furnish to the 45360  
department, satisfactory proof that the license applicant or any 45361  
auctioneer affiliated with the applicant meets the following 45362  
requirements: 45363

~~(A)~~(1) Has a good reputation; 45364

~~(B)~~(2) Is of trustworthy character; 45365

~~(C)~~(3) Has attained the age of at least eighteen years; 45366

~~(D)~~(4) Has a general knowledge of the requirements of the 45367  
Revised Code relative to auctioneers, the auction profession, and 45368  
the principles involved in conducting an auction; 45369

~~(E)~~(5) Has two years of professional auctioneering experience 45370  
immediately preceding the date of application and the experience 45371  
includes the personal conduct by the applicant of at least twelve 45372  
auction sales in any state, or has met the requirements of section 45373  
4707.12 of the Revised Code; 45374

~~(F)~~(6) Has paid a fee of one hundred dollars, ~~which shall be~~ 45375  
~~credited to the auctioneers fund;~~ 45376

~~(G)~~(7) Has provided proof of financial responsibility ~~as~~ 45377  
~~required under section 4707.11 of the Revised Code~~ in the form of 45378  
either an irrevocable letter of credit or a cash bond or a surety 45379  
bond in the amount of fifty thousand dollars. If the applicant 45380  
gives a surety bond, the bond shall be executed by a surety 45381  
company authorized to do business in this state. A bond shall be 45382

made to the department and shall be conditioned that the applicant 45383  
shall comply with this chapter and rules adopted under it, 45384  
including refraining from conduct described in section 4707.15 of 45385  
the Revised Code. All bonds shall be on a form approved by the 45386  
director of agriculture. 45387

**Sec. 4707.10.** (A) For purposes of this section, the 45388  
department of agriculture shall adopt rules in accordance with 45389  
section 4707.19 of the Revised Code prescribing fees that 45390  
licensees must pay and license renewal deadlines and procedures 45391  
with which licensees must comply. Until those rules are adopted, 45392  
licensees shall pay the fees and comply with the license renewal 45393  
deadlines and procedures established in this section. 45394

(B) The fee for each auctioneer's, apprentice auctioneer's, 45395  
or special auctioneer's license issued by the department of 45396  
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 45397  
any such license is one hundred dollars. All licenses expire 45398  
annually on the last day of June of each year and shall be renewed 45399  
according to the standard renewal procedures of Chapter 4745. of 45400  
the Revised Code, or the procedures of this section. Any licensee 45401  
under this chapter who wishes to renew the licensee's license, but 45402  
fails to do so before the first day of July shall reapply for 45403  
licensure in the same manner and pursuant to the same requirements 45404  
as for initial licensure, unless before the first day of September 45405  
of the year of expiration, the former licensee pays to the 45406  
department, in addition to the regular renewal fee, a late renewal 45407  
penalty of one hundred dollars. 45408

~~(B)~~(C) Any person who fails to renew the person's license 45409  
before the first day of July is prohibited from engaging in any 45410  
activity specified or comprehended in section 4707.01 of the 45411  
Revised Code until such time as the person's license is renewed or 45412  
a new license is issued. Renewal of a license between the first 45413

day of July and the first day of September does not relieve any 45414  
person from complying with this division. The department may 45415  
refuse to renew the license of or issue a new license to any 45416  
person who violates this division. 45417

~~(C)~~(D) The department shall prepare and deliver to each 45418  
licensee a permanent license certificate and an ~~annual renewal~~ 45419  
identification card, the appropriate portion of which shall be 45420  
carried on the person of the licensee at all times when engaged in 45421  
any type of auction activity, and part of which shall be posted 45422  
with the permanent certificate in a conspicuous location at the 45423  
licensee's place of business. 45424

~~(D)~~(E) Notice in writing shall be given to the department by 45425  
each auctioneer or apprentice auctioneer licensee of any change of 45426  
principal business location or any change or addition to the name 45427  
or names under which business is conducted, whereupon the 45428  
department shall issue a new license for the unexpired period. Any 45429  
change of business location or change or addition of names without 45430  
notification to the department shall automatically cancel any 45431  
license previously issued. For each new auctioneer or apprentice 45432  
auctioneer license issued upon the occasion of a change in 45433  
business location or a change in or an addition of names under 45434  
which business is conducted, the department may collect a fee of 45435  
ten dollars for each change in location, or name or each added 45436  
name unless the notification of the change occurs concurrently 45437  
with the renewal application. 45438

Sec. 4707.24. Except for the purposes of divisions (A) and 45439  
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 45440  
4707.31 of the Revised Code do not apply with respect to a license 45441  
issued under section 4707.072 of the Revised Code. 45442

**Sec. 4709.12.** (A) The barber board shall charge and collect 45443

the following fees:	45444
(1) For the application to take the barber examination, <del>sixty</del> <u>ninety</u> dollars;	45445 45446
(2) For an application to retake any part of the barber examination, <del>thirty</del> <u>forty-five</u> dollars;	45447 45448
(3) For the initial issuance of a license to practice as a barber, <del>twenty</del> <u>thirty</u> dollars;	45449 45450
(4) For the biennial renewal of the license to practice as a barber, <del>seventy-five</del> <u>one hundred ten</u> dollars;	45451 45452
(5) For the restoration of an expired barber license, one hundred dollars, and <del>fifty</del> <u>seventy-five</u> dollars for each lapsed year, provided that the total fee shall not exceed <del>four</del> <u>six</u> hundred <del>sixty</del> <u>ninety</u> dollars;	45453 45454 45455 45456
(6) For the issuance of a duplicate barber or shop license, <del>thirty</del> <u>forty-five</u> dollars;	45457 45458
(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, <del>seventy-five</del> <u>one hundred ten</u> dollars;	45459 45460 45461 45462
(8) For the biennial renewal of a barber shop license, <del>fifty</del> <u>seventy-five</u> dollars;	45463 45464
(9) For the restoration of a barber shop license, <del>seventy-five</del> <u>one hundred ten</u> dollars;	45465 45466
(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, <del>five</del> <u>seven</u> hundred <u>fifty</u> dollars;	45467 45468 45469 45470
(11) For the initial barber school license, <del>five-hundred</del> <u>one</u> <u>thousand</u> dollars, and <del>five-hundred</del> <u>one thousand</u> dollars for the renewal of the license;	45471 45472 45473

(12) For the restoration of a barber school license, <del>six</del>	45474
<del>hundred</del> <u>one thousand</u> dollars;	45475
(13) For the issuance of a student registration, <del>twenty-five</del>	45476
<u>forty</u> dollars;	45477
(14) For the examination and issuance of a biennial teacher	45478
<del>or assistant teacher</del> license, one hundred <del>twenty-five</del> <u>eighty-five</u>	45479
dollars;	45480
(15) For the renewal of a biennial teacher <del>or assistant</del>	45481
<del>teacher</del> license, one hundred <u>fifty</u> dollars;	45482
(16) For the restoration of an expired teacher <del>or assistant</del>	45483
<del>teacher</del> license, <del>one</del> <u>two</u> hundred <del>fifty</del> <u>twenty-five</u> dollars, and	45484
<del>forty</del> <u>sixty</u> dollars for each lapsed year, provided that the total	45485
fee shall not exceed <del>three</del> <u>four</u> hundred <u>fifty</u> dollars;	45486
(17) For the issuance of a barber license by reciprocity	45487
pursuant to section 4709.08 of the Revised Code, <del>two</del> <u>three</u> hundred	45488
dollars;	45489
(18) For providing licensure information concerning an	45490
applicant, upon written request of the applicant, <del>twenty-five</del>	45491
<u>forty</u> dollars.	45492
(B) The board, subject to the approval of the controlling	45493
board, may establish fees in excess of the amounts provided in	45494
this section, provided that the fees do not exceed the amounts	45495
permitted by this section by more than fifty per cent.	45496
<b>Sec. 4717.07.</b> (A) The board of embalmers and funeral	45497
directors shall charge and collect the following fees:	45498
(1) For the <u>initial</u> issuance <u>or biennial renewal</u> of an	45499
<del>initial</del> embalmer's or funeral director's license, <del>five</del> <u>one hundred</u>	45500
<u>forty</u> dollars;	45501
(2) For the issuance of an embalmer or funeral director	45502

registration, ~~twenty-five~~ one hundred dollars; 45503

(3) For filing an embalmer or funeral director certificate of 45504  
apprenticeship, ~~ten~~ fifty dollars; 45505

(4) For the application to take the examination for a license 45506  
to practice as an embalmer or funeral director, or to retake a 45507  
section of the examination, thirty-five dollars; 45508

(5) ~~For the biennial renewal of an embalmer's or funeral~~ 45509  
~~director's license, one hundred twenty dollars;~~ 45510

~~(6)~~ For the initial issuance of a license to operate a 45511  
funeral home, ~~one two hundred twenty-five~~ fifty dollars and 45512  
biennial renewal of a license to operate a funeral home, two 45513  
hundred fifty dollars; 45514

~~(7)~~(6) For the reinstatement of a lapsed embalmer's or 45515  
funeral director's license, the renewal fee prescribed in division 45516  
(A)(5) of this section plus fifty dollars for each month or 45517  
portion of a month the license is lapsed until reinstatement; 45518

~~(8)~~(7) For the reinstatement of a lapsed license to operate a 45519  
funeral home, the renewal fee prescribed in division (A)(6) of 45520  
this section plus fifty dollars for each month or portion of a 45521  
month the license is lapsed until reinstatement; 45522

~~(9)~~(8) For the initial issuance of a license to operate an 45523  
embalming facility, ~~one two hundred~~ dollars and biennial renewal 45524  
of a license to operate an embalming facility, two hundred 45525  
dollars; 45526

~~(10)~~(9) For the reinstatement of a lapsed license to operate 45527  
an embalming facility, the renewal fee prescribed in division 45528  
(A)(9) of this section plus fifty dollars for each month or 45529  
portion of a month the license is lapsed until reinstatement; 45530

~~(11)~~(10) For the initial issuance of a license to operate a 45531  
crematory facility, ~~one two hundred~~ dollars and biennial renewal 45532

of a license to operate a crematory facility, two hundred dollars; 45533

~~(12)~~(11) For the reinstatement of a lapsed license to operate 45534  
a crematory facility, the renewal fee prescribed in division 45535  
(A)(11) of this section plus fifty dollars for each month or 45536  
portion of a month the license is lapsed until reinstatement; 45537

~~(13)~~(12) For the issuance of a duplicate of a license issued 45538  
under this chapter, four dollars. 45539

(B) In addition to the fees set forth in division (A) of this 45540  
section, an applicant shall pay the examination fee assessed by 45541  
any examining agency the board uses for any section of an 45542  
examination required under this chapter. 45543

(C) Subject to the approval of the controlling board, the 45544  
board of embalmers and funeral directors may establish fees in 45545  
excess of the amounts set forth in this section, provided that 45546  
these fees do not exceed the amounts set forth in this section by 45547  
more than fifty per cent. 45548

**Sec. 4717.09.** (A) Every two years, licensed embalmers and 45549  
funeral directors shall attend between twelve and thirty hours of 45550  
educational programs as a condition for renewal of their licenses. 45551  
The board of embalmers and funeral directors shall adopt rules 45552  
governing the administration and enforcement of the continuing 45553  
education requirements of this section. The board may contract 45554  
with a professional organization or association or other third 45555  
party to assist it in performing functions necessary to administer 45556  
and enforce the continuing education requirements of this section. 45557  
A professional organization or association or other third party 45558  
with whom the board so contracts may charge a reasonable fee for 45559  
performing these functions to licensees or to the persons who 45560  
provide continuing education programs. 45561

(B) A person holding both an embalmer's license and a funeral 45562

director's license need meet only the continuing education 45563  
requirements established by the board for one or the other of 45564  
those licenses in order to satisfy the requirement of division (A) 45565  
of this section. 45566

(C) The board shall not renew the license of a licensee who 45567  
fails to meet the continuing education requirements of this 45568  
section and who has not been granted a waiver or exemption under 45569  
division (D) or (E) of this section. 45570

(D) Any licensee who fails to meet the continuing education 45571  
requirements of this section because of undue hardship or 45572  
disability, or who is not actively engaged in the practice of 45573  
funeral directing or embalming in this state, may apply to the 45574  
board for a waiver or an exemption. ~~The~~ 45575

(E) A licensee who has been an embalmer or a funeral director 45576  
for not less than fifty years and is not actually in charge of an 45577  
embalming facility or a manager or actually in charge of and 45578  
ultimately responsible for a funeral home may apply to the board 45579  
for an exemption. 45580

(F) The board shall determine, by rule, the procedures for 45581  
applying for a waiver or an exemption from continuing education 45582  
requirements under this section and under what conditions a waiver 45583  
or an exemption may be granted. 45584

**Sec. 4719.01.** (A) As used in sections 4719.01 to 4719.18 of 45585  
the Revised Code: 45586

(1) "Affiliate" means a business entity that is owned by, 45587  
operated by, controlled by, or under common control with another 45588  
business entity. 45589

(2) "Communication" means a written or oral notification or 45590  
advertisement that meets both of the following criteria, as 45591  
applicable: 45592

(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. 45624  
45625

(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: 45626  
45627  
45628

(a) An individual who comes within one of the exemptions in division (B) of this section; 45629  
45630

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section; 45631  
45632  
45633

(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. 45634  
45635  
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(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria: 45638  
45639

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson. 45640  
45641

(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. 45642  
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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 45647  
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45653

business. 45654

(B) A telephone solicitor is exempt from the provisions of 45655  
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 45656  
Code if the telephone solicitor is any one of the following: 45657

(1) A person engaging in a telephone solicitation that is a 45658  
one-time or infrequent transaction not done in the course of a 45659  
pattern of repeated transactions of a like nature; 45660

(2) A person engaged in telephone solicitation solely for 45661  
religious or political purposes; a charitable organization, 45662  
fund-raising counsel, or professional solicitor in compliance with 45663  
the registration and reporting requirements of Chapter 1716. of 45664  
the Revised Code; or any person or other entity exempt under 45665  
section 1716.03 of the Revised Code from filing a registration 45666  
statement under section 1716.02 of the Revised Code; 45667

(3) A person, making a telephone solicitation involving a 45668  
home solicitation sale as defined in section 1345.21 of the 45669  
Revised Code, that makes the sales presentation and completes the 45670  
sale at a later, face-to-face meeting between the seller and the 45671  
purchaser rather than during the telephone solicitation. However, 45672  
if the person, following the telephone solicitation, causes 45673  
another person to collect the payment of any money, this exemption 45674  
does not apply. 45675

(4) A licensed securities, commodities, or investment broker, 45676  
dealer, investment advisor, or associated person when making a 45677  
telephone solicitation within the scope of the person's license. 45678  
As used in division (B)(4) of this section, "licensed securities, 45679  
commodities, or investment broker, dealer, investment advisor, or 45680  
associated person" means a person subject to licensure or 45681  
registration as such by the securities and exchange commission; 45682  
the National Association of Securities Dealers or other 45683  
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 45684

the division of securities under Chapter 1707. of the Revised 45685  
Code; or by an official or agency of any other state of the United 45686  
States. 45687

(5)(a) A person primarily engaged in soliciting the sale of a 45688  
newspaper of general circulation; 45689

(b) As used in division (B)(5)(a) of this section, "newspaper 45690  
of general circulation" includes, but is not limited to, both of 45691  
the following: 45692

(i) A newspaper that is a daily law journal designated as an 45693  
official publisher of court calendars pursuant to section 2701.09 45694  
of the Revised Code; 45695

(ii) A newspaper or publication that has at least twenty-five 45696  
per cent editorial, non-advertising content, exclusive of inserts, 45697  
measured relative to total publication space, and an audited 45698  
circulation to at least fifty per cent of the households in the 45699  
newspaper's retail trade zone as defined by the audit. 45700

(6)(a) An issuer, or its subsidiary, that has a class of 45701  
securities to which all of the following apply: 45702

(i) The class of securities is subject to section 12 of the 45703  
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 45704  
registered or is exempt from registration under 15 U.S.C.A. 45705  
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 45706

(ii) The class of securities is listed on the New York stock 45707  
exchange, the American stock exchange, or the NASDAQ national 45708  
market system; 45709

(iii) The class of securities is a reported security as 45710  
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 45711

(b) An issuer, or its subsidiary, that formerly had a class 45712  
of securities that met the criteria set forth in division 45713  
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 45714

net worth in excess of one hundred million dollars, files or its 45715  
parent files with the securities and exchange commission an S.E.C. 45716  
form 10-K, and has continued in substantially the same business 45717  
since it had a class of securities that met the criteria in 45718  
division (B)(6)(a) of this section. As used in division (B)(6)(b) 45719  
of this section, "issuer" and "subsidiary" include the successor 45720  
to an issuer or subsidiary. 45721

(7) A person soliciting a transaction regulated by the 45722  
commodity futures trading commission, if the person is registered 45723  
or temporarily registered for that activity with the commission 45724  
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 45725  
registration has not expired or been suspended or revoked; 45726

(8) A person soliciting the sale of any book, record, audio 45727  
tape, compact disc, or video, if the person allows the purchaser 45728  
to review the merchandise for at least seven days and provides a 45729  
full refund within thirty days to a purchaser who returns the 45730  
merchandise or if the person solicits the sale on behalf of a 45731  
membership club operating in compliance with regulations adopted 45732  
by the federal trade commission in 16 C.F.R. 425; 45733

(9) A supervised financial institution or its subsidiary. As 45734  
used in division (B)(9) of this section, "supervised financial 45735  
institution" means a bank, trust company, savings and loan 45736  
association, savings bank, credit union, industrial loan company, 45737  
consumer finance lender, commercial finance lender, or institution 45738  
described in section 2(c)(2)(F) of the "Bank Holding Company Act 45739  
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 45740  
official or agency of the United States, this state, or any other 45741  
state of the United States; or a licensee or registrant under 45742  
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 45743  
1321.83 of the Revised Code. 45744

(10)(a) An insurance company, association, or other 45745  
organization that is licensed or authorized to conduct business in 45746

this state by the superintendent of insurance pursuant to Title 45747  
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 45748  
when soliciting within the scope of its license or authorization. 45749

(b) A licensed insurance broker, agent, or solicitor when 45750  
soliciting within the scope of the person's license. As used in 45751  
division (B)(10)(b) of this section, "licensed insurance broker, 45752  
agent, or solicitor" means any person licensed as an insurance 45753  
broker, agent, or solicitor by the superintendent of insurance 45754  
pursuant to Title XXXIX of the Revised Code. 45755

(11) A person soliciting the sale of services provided by a 45756  
cable television system operating under authority of a 45757  
governmental franchise or permit; 45758

(12) A person soliciting a business-to-business sale under 45759  
which any of the following conditions are met: 45760

(a) The telephone solicitor has been operating continuously 45761  
for at least three years under the same business name under which 45762  
it solicits purchasers, and at least fifty-one per cent of its 45763  
gross dollar volume of sales consists of repeat sales to existing 45764  
customers to whom it has made sales under the same business name. 45765

(b) The purchaser business intends to resell the goods 45766  
purchased. 45767

(c) The purchaser business intends to use the goods or 45768  
services purchased in a recycling, reuse, manufacturing, or 45769  
remanufacturing process. 45770

(d) The telephone solicitor is a publisher of a periodical or 45771  
of magazines distributed as controlled circulation publications as 45772  
defined in division (CC) of section 5739.01 of the Revised Code 45773  
and is soliciting sales of advertising, subscriptions, reprints, 45774  
lists, information databases, conference participation or 45775  
sponsorships, trade shows or media products related to the 45776  
periodical or magazine, or other publishing services provided by 45777

the controlled circulation publication. 45778

(13) A person that, not less often than once each year, 45779  
publishes and delivers to potential purchasers a catalog that 45780  
complies with both of the following: 45781

(a) It includes all of the following: 45782

(i) The business address of the seller; 45783

(ii) A written description or illustration of each good or 45784  
service offered for sale; 45785

(iii) A clear and conspicuous disclosure of the sale price of 45786  
each good or service; shipping, handling, and other charges; and 45787  
return policy; 45788

(b) One of the following applies: 45789

(i) The catalog includes at least twenty-four pages of 45790  
written material and illustrations, is distributed in more than 45791  
one state, and has an annual postage-paid mail circulation of not 45792  
less than two hundred fifty thousand households; 45793

(ii) The catalog includes at least ten pages of written 45794  
material or an equivalent amount of material in electronic form on 45795  
the internet or an on-line computer service, the person does not 45796  
solicit customers by telephone but solely receives telephone calls 45797  
made in response to the catalog, and during the calls the person 45798  
takes orders but does not engage in further solicitation of the 45799  
purchaser. As used in division (B)(13)(b)(ii) of this section, 45800  
"further solicitation" does not include providing the purchaser 45801  
with information about, or attempting to sell, any other item in 45802  
the catalog that prompted the purchaser's call or in a 45803  
substantially similar catalog issued by the seller. 45804

(14) A political subdivision or instrumentality of the United 45805  
States, this state, or any state of the United States; 45806

(15) A college or university or any other public or private 45807

institution of higher education in this state; 45808

(16) A public utility as defined in section 4905.02 of the 45809  
Revised Code or a retail natural gas supplier as defined in 45810  
section 4929.01 of the Revised Code, if the utility or supplier is 45811  
subject to regulation by the public utilities commission, or the 45812  
affiliate of the utility or supplier; 45813

~~(17) A travel agency or tour promoter that is registered in 45814  
compliance with section 1333.96 of the Revised Code when 45815  
soliciting within the scope of the agency's or promoter's 45816  
registration; 45817~~

~~(18) A person that solicits sales through a television 45818  
program or advertisement that is presented in the same market area 45819  
no fewer than twenty days per month or offers for sale no fewer 45820  
than ten distinct items of goods or services; and offers to the 45821  
purchaser an unconditional right to return any good or service 45822  
purchased within a period of at least seven days and to receive a 45823  
full refund within thirty days after the purchaser returns the 45824  
good or cancels the service; 45825~~

~~(19)~~(18)(a) A person that, for at least one year, has been 45826  
operating a retail business under the same name as that used in 45827  
connection with telephone solicitation and both of the following 45828  
occur on a continuing basis: 45829

(i) The person either displays goods and offers them for 45830  
retail sale at the person's business premises or offers services 45831  
for sale and provides them at the person's business premises. 45832

(ii) At least fifty-one per cent of the person's gross dollar 45833  
volume of retail sales involves purchases of goods or services at 45834  
the person's business premises. 45835

(b) An affiliate of a person that meets the requirements in 45836  
division (B)~~(19)~~(18)(a) of this section if the affiliate meets all 45837  
of the following requirements: 45838

(i) The affiliate has operated a retail business for a period of less than one year; 45839  
45840

(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; 45841  
45842  
45843  
45844

(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. 45845  
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45847

(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: 45848  
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45850  
45851

(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; 45852  
45853  
45854

(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; 45855  
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45857  
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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. 45860  
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45862  
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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: 45864  
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45866

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person 45867  
45868

receives at least seventy-five per cent of its gross revenues from 45869  
written telephone solicitation contracts with persons who come 45870  
within one of the exemptions in division (B) of this section. 45871

(b) The person is an affiliate of one or more exempt persons 45872  
and makes telephone solicitations on behalf of only the exempt 45873  
persons of which it is an affiliate. 45874

(c) The person makes telephone solicitations on behalf of 45875  
only exempt persons, the person and each exempt person on whose 45876  
behalf telephone solicitations are made have entered into a 45877  
written contract that specifies the manner in which the telephone 45878  
solicitations are to be conducted and that at a minimum requires 45879  
compliance with the telemarketing sales rule adopted by the 45880  
federal trade commission in 16 C.F.R. part 310, and the person 45881  
conducts the telephone solicitations in the manner specified in 45882  
the written contract. 45883

(d) The person performs telephone solicitation for religious 45884  
or political purposes, a charitable organization, a fund-raising 45885  
council, or a professional solicitor in compliance with the 45886  
registration and reporting requirements of Chapter 1716. of the 45887  
Revised Code; and meets all of the following requirements: 45888

(i) The person has operated under the same ownership, 45889  
control, and business name for at least five years, and the person 45890  
receives at least fifty-one per cent of its gross revenues from 45891  
written telephone solicitation contracts with persons who come 45892  
within the exemption in division (B)(2) of this section; 45893

(ii) The person does not conduct a prize promotion or offer 45894  
the sale of an investment opportunity; and 45895

(iii) The person conducts all telephone solicitation 45896  
activities according to sections 310.3, 310.4, and 310.5 of the 45897  
telemarketing sales rules adopted by the federal trade commission 45898  
in 16 C.F.R. part 310. 45899

~~(21)~~(20) A person that is a licensed real estate salesperson 45900  
or broker under Chapter 4735. of the Revised Code when soliciting 45901  
within the scope of the person's license; 45902

~~(22)~~(21)(a) Either of the following: 45903

(i) 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 on behalf of a publisher under 45906  
a written agreement directly between the publisher and the person. 45907

(ii) A publisher that solicits the sale of the publisher's 45908  
periodical or magazine of general, paid circulation, or a person 45909  
that solicits a sale of that nature as authorized by a publisher 45910  
under a written agreement directly with a publisher's 45911  
clearinghouse provided the person is a resident of Ohio for more 45912  
than three years and initiates all telephone solicitations from 45913  
Ohio and the person conducts the solicitation and sale in 45914  
compliance with 16 C.F.R. Part 310, as adopted by the federal 45915  
trade commission. 45916

(b) As used in division (B)~~(22)~~(21) of this section, 45917  
"periodical or magazine of general, paid circulation" excludes a 45918  
periodical or magazine circulated only as part of a membership 45919  
package or given as a free gift or prize from the publisher or 45920  
person. 45921

~~(23)~~(22) A person that solicits the sale of food, as defined 45922  
in section 3715.01 of the Revised Code, or the sale of products of 45923  
horticulture, as defined in section 5739.01 of the Revised Code, 45924  
if the person does not intend the solicitation to result in, or 45925  
the solicitation actually does not result in, a sale that costs 45926  
the purchaser an amount greater than five hundred dollars. 45927

~~(24)~~(23) A funeral director licensed pursuant to Chapter 45928  
4717. of the Revised Code when soliciting within the scope of that 45929  
license, if both of the following apply: 45930

(a) The solicitation and sale are conducted in compliance 45931  
with 16 C.F.R. part 453, as adopted by the federal trade 45932  
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 45933  
the Revised Code; 45934

(b) The person provides to the purchaser of any preneed 45935  
funeral contract a notice that clearly and conspicuously sets 45936  
forth the cancellation rights specified in division (G) of section 45937  
1107.33 of the Revised Code, and retains a copy of the notice 45938  
signed by the purchaser. 45939

~~(25)~~(24) A person, or affiliate thereof, licensed to sell or 45940  
issue Ohio instruments designated as travelers checks pursuant to 45941  
sections 1315.01 to 1315.11 of the Revised Code. 45942

~~(26)~~(25) A person that solicits sales from its previous 45943  
purchasers and meets all of the following requirements: 45944

(a) The solicitation is made under the same business name 45945  
that was previously used to sell goods or services to the 45946  
purchaser; 45947

(b) The person has, for a period of not less than three 45948  
years, operated a business under the same business name as that 45949  
used in connection with telephone solicitation; 45950

(c) The person does not conduct a prize promotion or offer 45951  
the sale of an investment opportunity; 45952

(d) The person conducts all telephone solicitation activities 45953  
according to sections 310.3, 310.4, and 310.5 of the telemarketing 45954  
sales rules adopted by the federal trade commission in 16 C.F.R. 45955  
part 310; 45956

(e) Neither the person nor any of its principals has been 45957  
convicted of, pleaded guilty to, or has entered a plea of no 45958  
contest for a felony or a theft offense as defined in sections 45959  
2901.02 and 2913.01 of the Revised Code or similar law of another 45960

state or of the United States; 45961

(f) Neither the person nor any of its principals has had 45962  
entered against them an injunction or a final judgment or order, 45963  
including an agreed judgment or order, an assurance of voluntary 45964  
compliance, or any similar instrument, in any civil or 45965  
administrative action involving engaging in a pattern of corrupt 45966  
practices, fraud, theft, embezzlement, fraudulent conversion, or 45967  
misappropriation of property; the use of any untrue, deceptive, or 45968  
misleading representation; or the use of any unfair, unlawful, 45969  
deceptive, or unconscionable trade act or practice. 45970

~~(27)~~(26) An institution defined as a home health agency in 45971  
section ~~3701.88~~ 3701.881 of the Revised Code, that conducts all 45972  
telephone solicitation activities according to sections 310.3, 45973  
310.4, and 310.5 of the telemarketing sales rules adopted by the 45974  
federal trade commission in 16 C.F.R. part 310, and engages in 45975  
telephone solicitation only within the scope of the institution's 45976  
certification, accreditation, contract with the department of 45977  
aging, or status as a home health agency; and that meets one of 45978  
the following requirements: 45979

(a) The institution is certified as a provider of home health 45980  
services under Title XVIII of the Social Security Act, 49 Stat. 45981  
620, 42 U.S.C. 301, as amended; ~~and is registered with the~~ 45982  
~~department of health pursuant to division (B) of section 3701.88~~ 45983  
~~of the Revised Code;~~ 45984

(b) The institution is accredited by either the joint 45985  
commission on accreditation of health care organizations or the 45986  
community health accreditation program; 45987

(c) The institution is providing passport services under the 45988  
direction of the Ohio department of aging under section 173.40 of 45989  
the Revised Code; 45990

(d) An affiliate of an institution that meets the 45991

requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 45992  
section when offering for sale substantially the same goods and 45993  
services as those that are offered by the institution that meets 45994  
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 45995  
section. 45996

~~(28)~~(27) A person licensed to provide a hospice care program 45997  
by the department of health pursuant to section 3712.04 of the 45998  
Revised Code when conducting telephone solicitations within the 45999  
scope of the person's license and according to sections 310.3, 46000  
310.4, and 310.5 of the telemarketing sales rules adopted by the 46001  
federal trade commission in 16 C.F.R. part 310. 46002

**Sec. 4723.01.** As used in this chapter: 46003

(A) "Registered nurse" means an individual who holds a 46004  
current, valid license issued under this chapter that authorizes 46005  
the practice of nursing as a registered nurse. 46006

(B) "Practice of nursing as a registered nurse" means 46007  
providing to individuals and groups nursing care requiring 46008  
specialized knowledge, judgment, and skill derived from the 46009  
principles of biological, physical, behavioral, social, and 46010  
nursing sciences. Such nursing care includes: 46011

(1) Identifying patterns of human responses to actual or 46012  
potential health problems amenable to a nursing regimen; 46013

(2) Executing a nursing regimen through the selection, 46014  
performance, management, and evaluation of nursing actions; 46015

(3) Assessing health status for the purpose of providing 46016  
nursing care; 46017

(4) Providing health counseling and health teaching; 46018

(5) Administering medications, treatments, and executing 46019  
regimens authorized by an individual who is authorized to practice 46020  
in this state and is acting within the course of the individual's 46021

professional practice;	46022
(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.	46023 46024
(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.	46025 46026
(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.	46027 46028 46029 46030
(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.	46031 46032 46033
(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:	46034 46035 46036 46037 46038 46039
(1) Observation, patient teaching, and care in a diversity of health care settings;	46040 46041
(2) Contributions to the planning, implementation, and evaluation of nursing;	46042 46043
(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.	46044 46045 46046 46047 46048 46049 46050 46051

(4) Administration to an adult of intravenous therapy 46052  
authorized by an individual who is authorized to practice in this 46053  
state and is acting within the course of the individual's 46054  
professional practice, on the condition that the licensed 46055  
practical nurse is authorized under section 4723.17 or 4723.171 of 46056  
the Revised Code to perform intravenous therapy and performs 46057  
intravenous therapy only in accordance with those sections. 46058

(G) "Certified registered nurse anesthetist" means a 46059  
registered nurse who holds a valid certificate of authority issued 46060  
under this chapter that authorizes the practice of nursing as a 46061  
certified registered nurse anesthetist in accordance with section 46062  
4723.43 of the Revised Code and rules adopted by the board of 46063  
nursing. 46064

(H) "Clinical nurse specialist" means a registered nurse who 46065  
holds a valid certificate of authority issued under this chapter 46066  
that authorizes the practice of nursing as a clinical nurse 46067  
specialist in accordance with section 4723.43 of the Revised Code 46068  
and rules adopted by the board of nursing. 46069

(I) "Certified nurse-midwife" means a registered nurse who 46070  
holds a valid certificate of authority issued under this chapter 46071  
that authorizes the practice of nursing as a certified 46072  
nurse-midwife in accordance with section 4723.43 of the Revised 46073  
Code and rules adopted by the board of nursing. 46074

(J) "Certified nurse practitioner" means a registered nurse 46075  
who holds a valid certificate of authority issued under this 46076  
chapter that authorizes the practice of nursing as a certified 46077  
nurse practitioner in accordance with section 4723.43 of the 46078  
Revised Code and rules adopted by the board of nursing. 46079

(K) "Physician" means an individual authorized under Chapter 46080  
4731. of the Revised Code to practice medicine and surgery or 46081  
osteopathic medicine and surgery. 46082

(L) "Collaboration" or "collaborating" means the following: 46083

(1) In the case of a clinical nurse specialist, except as 46084  
provided in division (L)(3) of this section, or a certified nurse 46085  
practitioner, that one or more podiatrists acting within the scope 46086  
of practice of podiatry in accordance with section 4731.51 of the 46087  
Revised Code and with whom the nurse has entered into a standard 46088  
care arrangement or one or more physicians with whom the nurse has 46089  
entered into a standard care arrangement are continuously 46090  
available to communicate with the clinical nurse specialist or 46091  
certified nurse practitioner either in person or by radio, 46092  
telephone, or other form of telecommunication; 46093

(2) In the case of a certified nurse-midwife, that one or 46094  
more physicians with whom the certified nurse-midwife has entered 46095  
into a standard care arrangement are continuously available to 46096  
communicate with the certified nurse-midwife either in person or 46097  
by radio, telephone, or other form of telecommunication; 46098

(3) In the case of a clinical nurse specialist who practices 46099  
the nursing specialty of mental health or psychiatric mental 46100  
health without being authorized to prescribe drugs and therapeutic 46101  
devices, that one or more physicians are continuously available to 46102  
communicate with the nurse either in person or by radio, 46103  
telephone, or other form of telecommunication. 46104

(M) "Supervision," as it pertains to a certified registered 46105  
nurse anesthetist, means that the certified registered nurse 46106  
anesthetist is under the direction of a podiatrist acting within 46107  
the podiatrist's scope of practice in accordance with section 46108  
4731.51 of the Revised Code, a dentist acting within the dentist's 46109  
scope of practice in accordance with Chapter 4715. of the Revised 46110  
Code, or a physician, and, when administering anesthesia, the 46111  
certified registered nurse anesthetist is in the immediate 46112  
presence of the podiatrist, dentist, or physician. 46113

(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; 46144

(3) Issue and renew nursing licenses ~~and~~, dialysis technician 46145  
certificates, and community health worker certificates, as 46146  
provided in this chapter; 46147

(4) Define the minimum curricula and standards for 46148  
educational programs of the schools of professional nursing and 46149  
schools of practical nursing in this state; 46150

(5) Survey, inspect, and grant full approval to prelicensure 46151  
nursing education programs that meet the standards established by 46152  
rules adopted under section 4723.07 of the Revised Code. 46153  
Prelicensure nursing education programs include, but are not 46154  
limited to, associate degree, baccalaureate degree, diploma, and 46155  
doctor of nursing programs leading to initial licensure to 46156  
practice nursing as a registered nurse and practical nurse 46157  
programs leading to initial licensure to practice nursing as a 46158  
licensed practical nurse. 46159

(6) Grant conditional approval, by a vote of a quorum of the 46160  
board, to a new prelicensure nursing education program or a 46161  
program that is being reestablished after having ceased to 46162  
operate, if the program meets and maintains the minimum standards 46163  
of the board established by rules adopted under section 4723.07 of 46164  
the Revised Code. If the board does not grant conditional 46165  
approval, it shall hold an adjudication under Chapter 119. of the 46166  
Revised Code to consider conditional approval of the program. If 46167  
the board grants conditional approval, at its first meeting after 46168  
the first class has completed the program, the board shall 46169  
determine whether to grant full approval to the program. If the 46170  
board does not grant full approval or if it appears that the 46171  
program has failed to meet and maintain standards established by 46172  
rules adopted under section 4723.07 of the Revised Code, the board 46173  
shall hold an adjudication under Chapter 119. of the Revised Code 46174  
to consider the program. Based on results of the adjudication, the 46175

board may continue or withdraw conditional approval, or grant full approval. 46176  
46177

(7) Place on provisional approval, for a period of time 46178  
specified by the board, a program that has ceased to meet and 46179  
maintain the minimum standards of the board established by rules 46180  
adopted under section 4723.07 of the Revised Code. At the end of 46181  
the period, the board shall reconsider whether the program meets 46182  
the standards and shall grant full approval if it does. If it does 46183  
not, the board may withdraw approval, pursuant to an adjudication 46184  
under Chapter 119. of the Revised Code. 46185

(8) Approve continuing nursing education programs and courses 46186  
under standards established in rules adopted under section 4723.07 46187  
of the Revised Code; 46188

(9) Approve peer support programs, under rules adopted under 46189  
section 4723.07 of the Revised Code, for nurses ~~and~~, for dialysis 46190  
technicians, and for certified community health workers; 46191

(10) Establish a program for monitoring chemical dependency 46192  
in accordance with section 4723.35 of the Revised Code; 46193

(11) Establish the practice intervention and improvement 46194  
program in accordance with section 4723.282 of the Revised Code; 46195

(12) Issue and renew certificates of authority to practice 46196  
nursing as a certified registered nurse anesthetist, clinical 46197  
nurse specialist, certified nurse-midwife, or certified nurse 46198  
practitioner; 46199

(13) Approve under section 4723.46 of the Revised Code 46200  
national certifying organizations for examination and 46201  
certification of certified registered nurse anesthetists, clinical 46202  
nurse specialists, certified nurse-midwives, or certified nurse 46203  
practitioners; 46204

(14) Issue and renew certificates to prescribe in accordance 46205

with sections 4723.48 and 4723.485 of the Revised Code;	46206
(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;	46207 46208 46209
(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;	46210 46211 46212 46213 46214 46215
(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;	46216 46217 46218 46219
(18) Make an annual report to the governor, which shall be open for public inspection;	46220 46221
(19) Maintain and have open for public inspection the following records:	46222 46223
(a) A record of all its meetings and proceedings;	46224
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter <del>and</del> ; 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.	46225 46226 46227 46228 46229
(c) A list of prelicensure nursing education programs approved by the board;	46230 46231
(d) A list of approved peer support programs for nurses <del>and</del> , dialysis technicians, <u>and certified community health workers</u> .	46232 46233
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards	46234 46235

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>	46266
<u>(g) A freestanding cardiac catheterization facility;</u>	46267
<u>(h) A freestanding birthing center;</u>	46268
<u>(i) A freestanding or mobile diagnostic imaging center;</u>	46269
<u>(j) A freestanding radiation therapy center.</u>	46270
<u>(2) "Nurse education program" means a prelicensure nurse</u>	46271
<u>education program approved by the board of nursing under section</u>	46272
<u>4723.06 of the Revised Code or a postlicensure nurse education</u>	46273
<u>program approved by the board of regents under section 3333.04 of</u>	46274
<u>the Revised Code.</u>	46275
<u>(B) The state board of nursing shall establish and administer</u>	46276
<u>the nurse education grant program. Under the program, the board</u>	46277
<u>shall award grants to nurse education programs that have</u>	46278
<u>partnerships with other education programs, community health</u>	46279
<u>agencies, or health care facilities. Grant recipients shall use</u>	46280
<u>the money to fund partnerships to increase the nurse education</u>	46281
<u>program's enrollment capacity. Methods of increasing a program's</u>	46282
<u>enrollment capacity may include hiring faculty and preceptors,</u>	46283
<u>purchasing educational equipment and materials, and other actions</u>	46284
<u>acceptable to the board. Grant money shall not be used to</u>	46285
<u>construct or renovate buildings. Partnerships may be developed</u>	46286
<u>between one or more nurse education programs and one or more</u>	46287
<u>health care facilities.</u>	46288
<u>In awarding grants, the board shall give preference to</u>	46289
<u>partnerships between nurse education programs and hospitals,</u>	46290
<u>nursing homes, and county homes or county nursing homes, but may</u>	46291
<u>also award grants to fund partnerships between nurse education</u>	46292
<u>programs and other health care facilities.</u>	46293
<u>(C) The board shall adopt rules in accordance with Chapter</u>	46294
<u>119. of the Revised Code establishing the following:</u>	46295

<u>(1) Eligibility requirements for receipt of a grant;</u>	46296
<u>(2) Grant application forms and procedures;</u>	46297
<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>	46298 46299 46300 46301
<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>	46302 46303 46304
<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>	46305 46306 46307
<u>(6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;</u>	46308 46309 46310
<u>(7) Any other matters incidental to the operation of the program.</u>	46311 46312
<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>	46313 46314 46315 46316 46317 46318 46319 46320 46321
<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>	46322 46323 46324 46325

quarter and the amount equal to that number times ten dollars. 46326

(F) Notwithstanding the requirements of section 4743.05 of 46327  
the Revised Code, from January 1, 2004, until December 31, 2013, 46328  
at the end of each quarter, the director of budget and management 46329  
shall transfer from the occupational licensing and regulatory fund 46330  
to the nurse education grant program fund the amount certified 46331  
under division (E) of this section. 46332

**Sec. 4723.07.** In accordance with Chapter 119. of the Revised 46333  
Code, the board of nursing shall adopt and may amend and rescind 46334  
rules that establish all of the following: 46335

(A) Provisions for the board's government and control of its 46336  
actions and business affairs; 46337

(B) Minimum curricula and standards for nursing education 46338  
programs that prepare graduates to be licensed under this chapter 46339  
and procedures for granting, renewing, and withdrawing approval of 46340  
those programs; 46341

(C) Criteria that applicants for licensure must meet to be 46342  
eligible to take examinations for licensure; 46343

(D) Standards and procedures for renewal of the licenses and 46344  
certificates issued by the board; 46345

(E) Standards for approval of continuing nursing education 46346  
programs and courses for registered nurses, licensed practical 46347  
nurses, certified registered nurse anesthetists, clinical nurse 46348  
specialists, certified nurse-midwives, and certified nurse 46349  
practitioners. The standards may provide for approval of 46350  
continuing nursing education programs and courses that have been 46351  
approved by other state boards of nursing or by national 46352  
accreditation systems for nursing, including, but not limited to, 46353  
the American nurses' credentialing center and the national 46354  
association for practical nurse education and service. 46355

(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 46387  
exposure-prone invasive procedures. The rules shall define and 46388  
establish requirements for universal blood and body fluid 46389  
precautions that include the following: 46390

(1) Appropriate use of hand washing; 46391

(2) Disinfection and sterilization of equipment; 46392

(3) Handling and disposal of needles and other sharp 46393  
instruments; 46394

(4) Wearing and disposal of gloves and other protective 46395  
garments and devices. 46396

(M) Standards and procedures for approving certificates of 46397  
authority to practice nursing as a certified registered nurse 46398  
anesthetist, clinical nurse specialist, certified nurse-midwife, 46399  
or certified nurse practitioner, and for renewal of those 46400  
certificates; 46401

(N) Quality assurance standards for certified registered 46402  
nurse anesthetists, clinical nurse specialists, certified 46403  
nurse-midwives, or certified nurse practitioners; 46404

(O) Additional criteria for the standard care arrangement 46405  
required by section 4723.431 of the Revised Code entered into by a 46406  
clinical nurse specialist, certified nurse-midwife, or certified 46407  
nurse practitioner and the nurse's collaborating physician or 46408  
podiatrist; 46409

(P) Continuing education standards for clinical nurse 46410  
specialists who are exempt under division (C) of section 4723.41 46411  
of the Revised Code from the requirement of having passed a 46412  
certification examination; 46413

(Q) For purposes of division (B)(31) of section 4723.28 of 46414  
the Revised Code, the actions, omissions, or other circumstances 46415  
that constitute failure to establish and maintain professional 46416

boundaries with a patient. 46417

The board may adopt other rules necessary to carry out the 46418  
provisions of this chapter. The rules shall be adopted in 46419  
accordance with Chapter 119. of the Revised Code. 46420

**Sec. 4723.08.** (A) The board of nursing may impose fees not to 46421  
exceed the following limits: 46422

(1) For application for licensure by examination to practice 46423  
nursing as a registered nurse or as a licensed practical nurse, 46424  
~~fifty~~ seventy-five dollars; 46425

(2) For application for licensure by endorsement to practice 46426  
nursing as a registered nurse or as a licensed practical nurse, 46427  
~~fifty~~ seventy-five dollars; 46428

(3) For application for a certificate of authority to 46429  
practice nursing as a certified registered nurse anesthetist, 46430  
clinical nurse specialist, certified nurse-midwife, or certified 46431  
nurse practitioner, one hundred dollars; 46432

(4) For application for a temporary dialysis technician 46433  
certificate, the amount specified in rules adopted under section 46434  
4723.79 of the Revised Code; 46435

(5) For application for a full dialysis technician 46436  
certificate, the amount specified in rules adopted under section 46437  
4723.79 of the Revised Code; 46438

(6) For application for a certificate to prescribe, fifty 46439  
dollars; 46440

(7) For verification of a nursing license, certificate of 46441  
authority, or dialysis technician certificate to another 46442  
jurisdiction, fifteen dollars; 46443

(8) For providing a replacement copy of a nursing license, 46444  
certificate of authority, ~~or certificate to prescribe,~~ dialysis 46445

technician certificate, ~~fifteen~~ intravenous therapy card, or 46446  
frameable certificate, twenty-five dollars; 46447

(9) For biennial renewal of a nursing license that expires on 46448  
or ~~before~~ after August 31, 2003, ~~thirty-five~~ but before January 1, 46449  
2004, forty-five dollars; 46450

(10) For biennial renewal of a nursing license that expires 46451  
on or after ~~September 1, 2003,~~ forty-five January 1, 2004, 46452  
sixty-five dollars; 46453

(11) For biennial renewal of a certificate of authority to 46454  
practice nursing as a certified registered nurse anesthetist, 46455  
clinical nurse specialist, certified nurse mid-wife, or certified 46456  
nurse practitioner that expires on or before August 31, 2005, one 46457  
hundred dollars; 46458

(12) For biennial renewal of a certificate of authority to 46459  
practice nursing as a certified registered nurse anesthetist, 46460  
clinical nurse specialist, certified nurse-midwife, or certified 46461  
nurse practitioner that expires on or after September 1, 2005, 46462  
eighty-five dollars; 46463

(13) For renewal of a certificate to prescribe, fifty 46464  
dollars; 46465

(14) For biennial renewal of a dialysis technician 46466  
certificate, the amount specified in rules adopted under section 46467  
4723.79 of the Revised Code; 46468

(15) For processing a late application for renewal of a 46469  
nursing license, certificate of authority, or dialysis technician 46470  
certificate, fifty dollars; 46471

(16) For application for authorization to approve continuing 46472  
nursing education programs and courses from an applicant 46473  
accredited by a national accreditation system for nursing, five 46474  
hundred dollars; 46475

(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;	46476 46477 46478 46479
(18) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;	46480 46481 46482
(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;	46483 46484 46485
(20) For reinstatement of a lapsed nursing license, certificate of authority, or dialysis technician certificate, one hundred dollars;	46486 46487 46488
(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> <del>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.;</del>	46489 46490 46491 46492 46493 46494 46495 46496
(22) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;	46497 46498
<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>	46499 46500 46501
<u>(24) For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars;</u>	46502 46503
<u>(25) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of</u>	46504 46505

certificates to community health workers, including fees for 46506  
application for a certificate, verification of a certificate to 46507  
another jurisdiction, written verification of a certificate when 46508  
the verification is performed for purposes other than verification 46509  
to another jurisdiction, providing a replacement copy of a 46510  
certificate, biennial renewal of a certificate, processing a late 46511  
application for renewal of a certificate, reinstatement of a 46512  
lapsed certificate, application for approval of a community health 46513  
worker training program for community health workers, and biennial 46514  
renewal of the approval of a training program for community health 46515  
workers. 46516

(B) Each quarter, for purposes of transferring funds under 46517  
section 4743.05 of the Revised Code to the nurse education 46518  
assistance fund created in section 3333.28 of the Revised Code, 46519  
the board of nursing shall certify to the director of budget and 46520  
management the number of biennial licenses renewed under this 46521  
chapter during the preceding quarter and the amount equal to that 46522  
number times five dollars. 46523

(C) The board may charge a participant in a board-sponsored 46524  
continuing education activity an amount not exceeding fifteen 46525  
dollars for each activity. 46526

(D) The board may contract for services pertaining to the 46527  
process of providing written verification of a nursing license, 46528  
certificate of authority, dialysis technician certificate, or 46529  
community health worker certificate when the verification is 46530  
performed for purposes other than providing verification to 46531  
another jurisdiction. The contract may include provisions 46532  
pertaining to the collection of the fee charged for providing the 46533  
written verification. As part of these provisions, the board may 46534  
permit the contractor to retain a portion of the fees as 46535  
compensation, before any amounts are deposited into the state 46536  
treasury. 46537

**Sec. 4723.082.** ~~All~~ (A) Except as provided in section 4723.062 46538  
of the Revised Code and division (B) of this section, all 46539  
receipts of the board of nursing, from any source, shall be deposited in 46540  
the state treasury to the credit of the occupational licensing and 46541  
regulatory fund. All 46542

(B) All receipts from board-sponsored continuing education 46543  
activities shall be deposited in the state treasury to the credit 46544  
of the special nursing issue fund created by section 4723.062 of 46545  
the Revised Code. 46546

(C) All vouchers of the board shall be approved by the board 46547  
president or executive director, or both, as authorized by the 46548  
board. 46549

**Sec. 4723.17.** (A) The board of nursing may authorize a 46550  
licensed practical nurse to administer to an adult intravenous 46551  
therapy authorized by an individual who is authorized to practice 46552  
in this state and is acting within the course of the individual's 46553  
professional practice, ~~if all of the following are true of the~~ 46554  
licensed practical nurse: 46555

~~(1) The nurse~~ has a current, valid license issued under this 46556  
chapter that includes authorization to administer medications and 46557  
one of the following is the case: 46558

(1) The nurse has successfully completed, within a practical 46559  
nurse prelicensure education program approved by the board or by 46560  
another jurisdiction's agency that regulates the practice of 46561  
nursing, a course of study that prepares the nurse to safely 46562  
perform the intravenous therapy procedures the board may authorize 46563  
under this section. To meet this requirement, the course of study 46564  
must include all of the following: 46565

(a) Both didactic and clinical components; 46566

(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code; 46567  
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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. 46570  
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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:~~ 46573  
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46575

~~(a) A~~ minimum of forty hours of training that includes all of the following: 46576  
46577

~~(i)~~(a) The curriculum established by rules adopted by the board and in effect on January 1, 1999; 46578  
46579

~~(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; 46580  
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46582  
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~~(iii)~~(c) Any other training or instruction the board considers appropriate. 46584  
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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. 46586  
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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. 46591  
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A licensed practical nurse authorized by the board to perform 46596

intravenous therapy may perform an intravenous therapy procedure 46597  
only at the direction of one of the following: 46598

(1) A licensed physician, dentist, optometrist, or podiatrist 46599  
who, except as provided in division (C)(2) of this section, is 46600  
present and readily available at the facility where the 46601  
intravenous therapy procedure is performed; 46602

(2) A registered nurse in accordance with division (C) of 46603  
this section. 46604

(C)(1) Except as provided in division (C)(2) of this section 46605  
and section 4723.171 of the Revised Code, when a licensed 46606  
practical nurse authorized by the board to perform intravenous 46607  
therapy performs an intravenous therapy procedure at the direction 46608  
of a registered nurse, the registered nurse or another registered 46609  
nurse shall be readily available at the site where the intravenous 46610  
therapy is performed, and before the licensed practical nurse 46611  
initiates the intravenous therapy, the registered nurse shall 46612  
personally perform an on-site assessment of the individual who is 46613  
to receive the intravenous therapy. 46614

(2) When a licensed practical nurse authorized by the board 46615  
to perform intravenous therapy performs an intravenous therapy 46616  
procedure in a home as defined in section 3721.10 of the Revised 46617  
Code, or in an intermediate care facility for the mentally 46618  
retarded as defined in section 5111.20 of the Revised Code, at the 46619  
direction of a registered nurse or licensed physician, dentist, 46620  
optometrist, or podiatrist, a registered nurse shall be on the 46621  
premises of the home or facility or accessible by some form of 46622  
telecommunication. 46623

(D) No licensed practical nurse shall perform any of the 46624  
following intravenous therapy procedures: 46625

(1) Initiating or maintaining any of the following: 46626

(a) Blood or blood components; 46627

(b) Solutions for total parenteral nutrition;	46628
(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;	46629 46630
(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;	46631 46632 46633 46634 46635 46636 46637
(e) Any investigational or experimental medication.	46638
(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;	46639 46640 46641 46642 46643
(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	46644 46645
(4) Initiating or discontinuing a peripherally inserted central catheter;	46646 46647
(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;	46648 46649 46650 46651
(6) Administering medication via the intravenous route, including all of the following activities:	46652 46653
(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:	46654 46655 46656 46657

(i) Initiate an intravenous infusion containing one or more 46658  
of the following elements: dextrose 5%; normal saline; lactated 46659  
ringers; sodium chloride .45%; sodium chloride 0.2%; sterile 46660  
water. 46661

(ii) Hang subsequent containers of the intravenous solutions 46662  
specified in division (D)(6)(a) of this section that contain 46663  
vitamins or electrolytes, if a registered nurse initiated the 46664  
infusion of that same intravenous solution. 46665

(b) Initiating or maintaining an intravenous piggyback 46666  
infusion, except that a licensed practical nurse authorized by the 46667  
board to perform intravenous therapy may initiate or maintain an 46668  
intravenous piggyback infusion containing an antibiotic additive; 46669

(c) Injecting medication via a direct intravenous route, 46670  
except that a licensed practical nurse authorized by the board to 46671  
perform intravenous therapy may inject heparin or normal saline to 46672  
flush an intermittent infusion device or heparin lock including, 46673  
but not limited to, bolus or push. 46674

(7) Aspirating any intravenous line to maintain patency; 46675

(8) Changing tubing on any line including, but not limited 46676  
to, an arterial line or a central venous line, except that a 46677  
licensed practical nurse authorized by the board to perform 46678  
intravenous therapy may change tubing on an intravenous line that 46679  
terminates in a peripheral vein; 46680

(9) Programming or setting any function of a patient 46681  
controlled infusion pump. 46682

(E) Notwithstanding division (D) of this section, at the 46683  
direction of a physician or a registered nurse, a licensed 46684  
practical nurse authorized by the board to perform intravenous 46685  
therapy may perform the following activities for the purpose of 46686  
performing dialysis: 46687

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan; 46688  
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(2) The administration of a heparin dose intravenously; 46690

(3) The administration of a heparin dose peripherally via a fistula needle; 46691  
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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. 46693  
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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. 46696  
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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. 46700  
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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. 46709  
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Upon request of the holder of a nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community 46716  
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health worker certificate issued under this chapter and payment of 46718  
the fee authorized under section 4723.08 of the Revised Code, the 46719  
board shall verify to an agency of another jurisdiction or foreign 46720  
country the fact that the person holds such nursing license, 46721  
certificate of authority, ~~or~~ dialysis technician certificate, or 46722  
community health worker certificate. 46723

**Sec. 4723.34.** (A) Reports to the board of nursing shall be 46724  
made as follows: 46725

(1) Every employer of registered nurses, licensed practical 46726  
nurses, or dialysis technicians shall report to the board of 46727  
nursing the name of any current or former employee who holds a 46728  
nursing license or dialysis technician certificate issued under 46729  
this chapter who has engaged in conduct that would be grounds for 46730  
disciplinary action by the board under section 4723.28 of the 46731  
Revised Code. Every employer of certified community health workers 46732  
shall report to the board the name of any current or former 46733  
employee who holds a community health worker certificate issued 46734  
under this chapter who has engaged in conduct that would be 46735  
grounds for disciplinary action by the board under section 4723.86 46736  
of the Revised Code. 46737

(2) Nursing associations shall report to the board the name 46738  
of any registered nurse or licensed practical nurse and dialysis 46739  
technician associations shall report to the board the name of any 46740  
dialysis technician who has been investigated and found to 46741  
constitute a danger to the public health, safety, and welfare 46742  
because of conduct that would be grounds for disciplinary action 46743  
by the board under section 4723.28 of the Revised Code, except 46744  
that an association is not required to report the individual's 46745  
name if the individual is maintaining satisfactory participation 46746  
in a peer support program approved by the board under rules 46747  
adopted under section 4723.07 of the Revised Code. Community 46748

health worker associations shall report to the board the name of 46749  
any certified community health worker who has been investigated 46750  
and found to constitute a danger to the public health, safety, and 46751  
welfare because of conduct that would be grounds for disciplinary 46752  
action by the board under section 4723.86 of the Revised Code, 46753  
except that an association is not required to report the 46754  
individual's name if the individual is maintaining satisfactory 46755  
participation in a peer support program approved by the board 46756  
under rules adopted under section 4723.07 of the Revised Code. 46757

(3) If the prosecutor in a case described in divisions (B)(3) 46758  
to (5) of section 4723.28 of the Revised Code, or in a case where 46759  
the trial court issued an order of dismissal upon technical or 46760  
procedural grounds of a charge of a misdemeanor committed in the 46761  
course of practice, a felony charge, or a charge of gross 46762  
immorality or moral turpitude, knows or has reason to believe that 46763  
the person charged is licensed under this chapter to practice 46764  
nursing as a registered nurse or as a licensed practical nurse or 46765  
holds a certificate issued under this chapter to practice as a 46766  
dialysis technician, the prosecutor shall notify the board of 46767  
nursing. With regard to certified community health workers, if the 46768  
prosecutor in a case involving a charge of a misdemeanor committed 46769  
in the course of employment, a felony charge, or a charge of gross 46770  
immorality or moral turpitude, including a case dismissed on 46771  
technical or procedural grounds, knows or has reason to believe 46772  
that the person charged holds a community health worker 46773  
certificate issued under this chapter, the prosecutor shall notify 46774  
the board. 46775

Each notification required by this division shall be made on 46776  
forms prescribed and provided by the board. The report shall 46777  
include the name and address of the license or certificate holder, 46778  
the charge, and the certified court documents recording the 46779  
action. 46780

(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; 46811  
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(2) Terms and conditions that must be met to participate in and successfully complete the program; 46813  
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(3) Procedures for keeping confidential records regarding participants; 46815  
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(4) Any other requirements or procedures necessary to establish and administer the program. 46817  
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(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, or engaging in the provision of services that were being provided as a certified community health worker. 46819  
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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. 46826  
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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 or 4723.86 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 or 4723.86 of the Revised Code. 46836  
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(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member for disciplinary matters and the supervising member shall temporarily suspend the participant's license or certificate. The program coordinator shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

(E) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all records in the board's office for a period of five years.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the program coordinator to receive and release information necessary for the coordinator to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the program coordinator to receive and release information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the program coordinator to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division (E)(4) of this section,

all records pertaining to an individual's application for or 46873  
participation in the monitoring program, including medical 46874  
records, treatment records, and mental health records, shall be 46875  
confidential. The records are not public records for the purposes 46876  
of section 149.43 of the Revised Code and are not subject to 46877  
discovery by subpoena or admissible as evidence in any judicial 46878  
proceeding. 46879

(4) The program coordinator may disclose information 46880  
regarding a participant's progress in the program to any person or 46881  
government entity that the participant authorizes in writing to be 46882  
given the information. In disclosing information under this 46883  
division, the coordinator shall not include any information that 46884  
is protected under section 3793.13 of the Revised Code or any 46885  
federal statute or regulation that provides for the 46886  
confidentiality of medical, mental health, or substance abuse 46887  
records. 46888

(F) In the absence of fraud or bad faith, the program 46889  
coordinator, the board of nursing, and the board's employees and 46890  
representatives are not liable for damages in any civil action as 46891  
a result of disclosing information in accordance with division 46892  
(E)(4) of this section. In the absence of fraud or bad faith, any 46893  
person reporting to the program with regard to an individual's 46894  
chemical dependence, or the progress or lack of progress of that 46895  
individual with regard to treatment, is not liable for damages in 46896  
any civil action as a result of the report. 46897

**Sec. 4723.431.** (A) Except as provided in division (C)(1) of 46898  
this section, a clinical nurse specialist, certified 46899  
nurse-midwife, or certified nurse practitioner may practice only 46900  
in accordance with a standard care arrangement entered into with 46901  
each physician or podiatrist with whom the nurse collaborates. A 46902  
copy of the standard care arrangement shall be retained on file at 46903

each site where the nurse practices. Prior approval of the 46904  
standard care arrangement by the board of nursing is not required, 46905  
but the board may periodically review it for compliance with this 46906  
section. 46907

A clinical nurse specialist, certified nurse-midwife, or 46908  
certified nurse practitioner may enter into a standard care 46909  
arrangement with one or more collaborating physicians or 46910  
podiatrists. Each physician or podiatrist must be actively engaged 46911  
in direct clinical practice in this state and practicing in a 46912  
specialty that is the same as or similar to the nurse's nursing 46913  
specialty. If a collaborating physician or podiatrist enters into 46914  
standard care arrangements with more than three nurses who hold 46915  
certificates to prescribe issued under section 4723.48 of the 46916  
Revised Code, the physician or podiatrist shall not collaborate at 46917  
the same time with more than three of the nurses in the 46918  
prescribing component of their practices. 46919

(B) A standard care arrangement shall be in writing and, 46920  
except as provided in division (C)(2) of this section, shall 46921  
contain all of the following: 46922

(1) Criteria for referral of a patient by the clinical nurse 46923  
specialist, certified nurse-midwife, or certified nurse 46924  
practitioner to a collaborating physician or podiatrist; 46925

(2) A process for the clinical nurse specialist, certified 46926  
nurse-midwife, or certified nurse practitioner to obtain a 46927  
consultation with a collaborating physician or podiatrist; 46928

(3) A plan for coverage in instances of emergency or planned 46929  
absences of either the clinical nurse specialist, certified 46930  
nurse-midwife, or certified nurse practitioner or a collaborating 46931  
physician or podiatrist that provides the means whereby a 46932  
physician or podiatrist is available for emergency care; 46933

(4) The process for resolution of disagreements regarding 46934

matters of patient management between the clinical nurse 46935  
specialist, certified nurse-midwife, or certified nurse 46936  
practitioner and a collaborating physician or podiatrist; 46937

(5) A procedure for a regular review of the referrals by the 46938  
clinical nurse specialist, certified nurse-midwife, or certified 46939  
nurse practitioner to other health care professionals and the care 46940  
outcomes for a random sample of all patients seen by the nurse; 46941

(6) If the clinical nurse specialist or certified nurse 46942  
practitioner regularly provides services to infants, a policy for 46943  
care of infants up to age one and recommendations for 46944  
collaborating physician visits for children from birth to age 46945  
three; 46946

(7) Any other criteria required by rule of the board adopted 46947  
pursuant to section 4723.07 or 4723.50 of the Revised Code. 46948

(C) A standard care arrangement entered into pursuant to this 46949  
section may permit a clinical nurse specialist, certified 46950  
nurse-midwife, or certified nurse practitioner to supervise 46951  
services provided by a home health agency as defined in section 46952  
3701.881 of the Revised Code. 46953

(D)(1) A clinical nurse specialist who does not hold a 46954  
certificate to prescribe and whose nursing specialty is mental 46955  
health or psychiatric mental health, as determined by the board, 46956  
is not required to enter into a standard care arrangement, but 46957  
shall practice in collaboration with one or more physicians. 46958

(2) If a clinical nurse specialist practicing in either of 46959  
the specialties specified in division (C)(1) of this section holds 46960  
a certificate to prescribe, the nurse shall enter into a standard 46961  
care arrangement with one or more physicians. The standard care 46962  
arrangement must meet the requirements of division (B) of this 46963  
section, but only to the extent necessary to address the 46964  
prescribing component of the nurse's practice. 46965

~~(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 46996  
culturally appropriate solutions to problems and translate the 46997  
solutions into practice. 46998

The certification program does not require an individual to 46999  
obtain a community health worker certificate as a means of 47000  
authorizing the individual to perform any of the activities that 47001  
may be performed by an individual who holds a community health 47002  
worker certificate. 47003

**Sec. 4723.82.** (A) An individual who holds a current, valid 47004  
community health worker certificate issued by the board of nursing 47005  
under section 4723.85 of the Revised Code may use the title 47006  
"certified community health worker" or "community health worker." 47007  
When providing services within the community, the certificate 47008  
holder may represent to the public that the individual is 47009  
providing the services under either title. 47010

(B)(1) Holding a community health worker certificate does not 47011  
authorize an individual to administer medications or perform any 47012  
other activity that requires judgment based on nursing knowledge 47013  
or expertise. Any activities performed by a certified community 47014  
health worker that are related to nursing care shall be performed 47015  
only pursuant to the delegation of a registered nurse acting in 47016  
accordance with the rules for delegation adopted under this 47017  
chapter. Any other health-related activities performed by a 47018  
certified community health worker shall be performed only under 47019  
the supervision of a health professional acting within the scope 47020  
of the professional's practice. 47021

Only a registered nurse may supervise a certified community 47022  
health worker when performing delegated activities related to 47023  
nursing care. The registered nurse supervising a certified 47024  
community health worker shall provide the supervision in 47025  
accordance with the rules for delegation adopted under this 47026

chapter and the rules for supervision of community health workers 47027  
adopted under section 4723.88 of the Revised Code, including the 47028  
rules limiting the number of certified community health workers 47029  
who may be supervised at any one time. 47030

(2) A registered nurse who delegates activities to a 47031  
certified community health worker or supervises a certified 47032  
community health worker in the performance of delegated activities 47033  
is not liable in damages to any person or government entity in a 47034  
civil action for injury, death, or loss to person or property that 47035  
allegedly arises from an action or omission of the certified 47036  
community health worker in performing the activities, if the 47037  
registered nurse delegates the activities or provides the 47038  
supervision in accordance with this chapter and the rules adopted 47039  
under this chapter. 47040

**Sec. 4723.83.** (A) An individual seeking a community health 47041  
worker certificate shall submit an application to the board of 47042  
nursing on forms the board shall prescribe and furnish. The 47043  
applicant shall include all information the board requires to 47044  
process the application. The application shall be accompanied by 47045  
the fee established in rules adopted under section 4723.88 of the 47046  
Revised Code. 47047

(B) An applicant for a community health worker certificate 47048  
shall submit a request to the bureau of criminal identification 47049  
and investigation for a criminal records check of the applicant. 47050  
The request shall be on the form prescribed pursuant to division 47051  
(C)(1) of section 109.572 of the Revised Code, accompanied by a 47052  
standard impression sheet to obtain fingerprints prescribed 47053  
pursuant to division (C)(2) of that section, and accompanied by 47054  
the fee prescribed pursuant to division (C)(3) of that section. On 47055  
receipt of the completed form, the completed impression sheet, and 47056  
the fee, the bureau shall conduct a criminal records check of the 47057

applicant. On completion of the criminal records check, the bureau 47058  
shall send the results of the check to the board. The applicant 47059  
shall ask the superintendent of the bureau of criminal 47060  
identification and investigation to request that the federal 47061  
bureau of investigation provide the superintendent with any 47062  
information it has with respect to the applicant. 47063

The results of any criminal records check conducted pursuant 47064  
to a request made under this section, and any report containing 47065  
those results, are not public records for purposes of section 47066  
149.43 of the Revised Code and shall not be made available to any 47067  
person or for any purpose other than the following: 47068

(1) The results may be made available to any person for use 47069  
in determining whether the individual who is the subject of the 47070  
check should be issued a community health worker certificate. 47071

(2) The results may be made available to the individual who 47072  
is the subject of the check or that individual's representative. 47073

**Sec. 4723.84.** (A) To be eligible to receive a community 47074  
health worker certificate, an applicant shall meet all of the 47075  
following conditions: 47076

(1) Be eighteen years of age or older; 47077

(2) Possess a high school diploma or the equivalent of a high 47078  
school diploma, as determined by the board; 47079

(3) Except as provided in division (B) of this section, 47080  
successfully complete a community health worker training program 47081  
approved by the board under section 4723.87 of the Revised Code; 47082

(4) Have results on the criminal records check requested 47083  
under section 4723.83 of the Revised Code indicating that the 47084  
individual has not been convicted of, has not pleaded guilty to, 47085  
and has not had a judicial finding of guilt for violating section 47086  
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 47087

2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 47088  
substantially similar law of another state, the United States, or 47089  
another country; 47090

(5) Meet all other requirements the board specifies in rules 47091  
adopted under section 4723.88 of the Revised Code. 47092

(B) In lieu of meeting the condition of completing a 47093  
community health worker training program, an applicant may be 47094  
issued a community health worker certificate if the individual was 47095  
employed in a capacity substantially the same as a community 47096  
health worker before the board implemented the certification 47097  
program. To be eligible under this division, an applicant must 47098  
meet the requirements specified in rules adopted by the board 47099  
under section 4723.88 of the Revised Code and provide 47100  
documentation from the employer attesting to the employer's belief 47101  
that the applicant is competent to perform activities as a 47102  
certified community health worker. 47103

**Sec. 4723.85.** (A) The board of nursing shall review all 47104  
applications received under section 4723.83 of the Revised Code. 47105  
If an applicant meets the requirements of section 4723.84 of the 47106  
Revised Code, the board shall issue a community health worker 47107  
certificate to the applicant. 47108

(B) A community health worker certificate issued under this 47109  
section expires biennially and may be renewed in accordance with 47110  
the schedule and procedures established by the board in rules 47111  
adopted under section 4723.88 of the Revised Code. To be eligible 47112  
for renewal, an individual must complete the continuing education 47113  
requirements established by the board in rules adopted under 47114  
section 4723.88 of the Revised Code and meet all other 47115  
requirements for renewal, as specified in the board's rules 47116  
adopted under that section. If an applicant for renewal has 47117  
successfully completed the continuing education requirements and 47118

meets all other requirements for renewal, the board shall issue a 47119  
renewed community health worker certificate to the applicant. 47120

Sec. 4723.86. The board of nursing, by vote of a quorum, may 47121  
deny, revoke, or suspend a community health worker certificate. 47122  
The board may impose one or more of the sanctions against an 47123  
applicant or certificate holder for any of the reasons it 47124  
specifies in rules adopted under section 4723.88 of the Revised 47125  
Code. All actions to impose a sanction shall be taken in 47126  
accordance with Chapter 119. of the Revised Code. 47127

Sec. 4723.87. (A) A person or government entity seeking to 47128  
operate a training program that prepares individuals to become 47129  
certified community health workers shall submit an application to 47130  
the board of nursing on forms the board shall prescribe and 47131  
furnish. The applicant shall include all information the board 47132  
requires to process the application. The application shall be 47133  
accompanied by the fee established in rules adopted under section 47134  
4723.87 of the Revised Code. 47135

The board shall review all applications received. If an 47136  
applicant meets the standards for approval established in the 47137  
board's rules adopted under section 4723.88 of the Revised Code, 47138  
the board shall approve the program. 47139

(B) The board's approval of a training program expires 47140  
biennially and may be renewed in accordance with the schedule and 47141  
procedures established by the board in rules adopted under section 47142  
4723.88 of the Revised Code. 47143

(C) If an approved community health worker training program 47144  
ceases to meet the standards for approval, the board shall 47145  
withdraw its approval of the program, refuse to renew its approval 47146  
of the program, or place the program on provisional approval. In 47147  
withdrawing or refusing to renew its approval, the board shall act 47148

in accordance with Chapter 119. of the Revised Code. In placing a 47149  
program on provisional approval, the board shall specify the 47150  
period of time during which the provisional approval is valid. At 47151  
the end of the period, the board shall reconsider whether the 47152  
program meets the standards for approval. If the program meets the 47153  
standards for approval, the board shall reinstate its full 47154  
approval of the program or renew its approval of the program. If 47155  
the program does not meet the standards for approval, the board 47156  
shall proceed by withdrawing or refusing to renew its approval of 47157  
the program. 47158

Sec. 4723.88. The board of nursing, in accordance with 47159  
Chapter 119. of the Revised Code, shall adopt rules to administer 47160  
and enforce sections 4723.81 to 4723.87 of the Revised Code. The 47161  
rules shall establish all of the following: 47162

(A) Standards and procedures for issuance of community health 47163  
worker certificates; 47164

(B) Standards for evaluating the competency of an individual 47165  
who applies to receive a certificate on the basis of having been 47166  
employed in a capacity substantially the same as a community 47167  
health worker before the board implemented the certification 47168  
program; 47169

(C) Standards and procedures for renewal of community health 47170  
worker certificates, including the continuing education 47171  
requirements that must be met for renewal; 47172

(D) Standards governing the performance of activities related 47173  
to nursing care that are delegated by a registered nurse to 47174  
certified community health workers. In establishing the standards, 47175  
the board shall specify limits on the number of certified 47176  
community health workers a registered nurse may supervise at any 47177  
one time. 47178

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers; 47179  
47180

(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; 47181  
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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. 47186  
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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; 47195  
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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; 47199  
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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. 47201  
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**Sec. 4729.01.** As used in this chapter: 47204

(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. 47205  
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(B) "Practice of pharmacy" means providing pharmacist care 47209  
requiring specialized knowledge, judgment, and skill derived from 47210  
the principles of biological, chemical, behavioral, social, 47211  
pharmaceutical, and clinical sciences. As used in this division, 47212  
"pharmacist care" includes the following: 47213

(1) Interpreting prescriptions; 47214

(2) Compounding or dispensing drugs and dispensing drug 47215  
therapy related devices; 47216

(3) Counseling individuals with regard to their drug therapy, 47217  
recommending drug therapy related devices, and assisting in the 47218  
selection of drugs and appliances for treatment of common diseases 47219  
and injuries and providing instruction in the proper use of the 47220  
drugs and appliances; 47221

(4) Performing drug regimen reviews with individuals by 47222  
discussing all of the drugs that the individual is taking and 47223  
explaining the interactions of the drugs; 47224

(5) Performing drug utilization reviews with licensed health 47225  
professionals authorized to prescribe drugs when the pharmacist 47226  
determines that an individual with a prescription has a drug 47227  
regimen that warrants additional discussion with the prescriber; 47228

(6) Advising an individual and the health care professionals 47229  
treating an individual with regard to the individual's drug 47230  
therapy; 47231

(7) Acting pursuant to a consult agreement with a physician 47232  
authorized under Chapter 4731. of the Revised Code to practice 47233  
medicine and surgery or osteopathic medicine and surgery, if an 47234  
agreement has been established with the physician; 47235

(8) Administering ~~by injection~~ the adult immunizations 47236  
specified in section 4729.41 of the Revised Code, if the 47237  
pharmacist has met the requirements of that section. 47238

(C) "Compounding" means the preparation, mixing, assembling, 47239  
packaging, and labeling of one or more drugs in any of the 47240  
following circumstances: 47241

(1) Pursuant to a prescription issued by a licensed health 47242  
professional authorized to prescribe drugs; 47243

(2) Pursuant to the modification of a prescription made in 47244  
accordance with a consult agreement; 47245

(3) As an incident to research, teaching activities, or 47246  
chemical analysis; 47247

(4) In anticipation of prescription drug orders based on 47248  
routine, regularly observed dispensing patterns. 47249

(D) "Consult agreement" means an agreement to manage an 47250  
individual's drug therapy that has been entered into by a 47251  
pharmacist and a physician authorized under Chapter 4731. of the 47252  
Revised Code to practice medicine and surgery or osteopathic 47253  
medicine and surgery. 47254

(E) "Drug" means: 47255

(1) Any article recognized in the United States pharmacopoeia 47256  
and national formulary, or any supplement to them, intended for 47257  
use in the diagnosis, cure, mitigation, treatment, or prevention 47258  
of disease in humans or animals; 47259

(2) Any other article intended for use in the diagnosis, 47260  
cure, mitigation, treatment, or prevention of disease in humans or 47261  
animals; 47262

(3) Any article, other than food, intended to affect the 47263  
structure or any function of the body of humans or animals; 47264

(4) Any article intended for use as a component of any 47265  
article specified in division (C)(1), (2), or (3) of this section; 47266  
but does not include devices or their components, parts, or 47267  
accessories. 47268

(F) "Dangerous drug" means any of the following:	47269
(1) Any drug to which either of the following applies:	47270
(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;	47271 47272 47273 47274 47275 47276 47277
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	47278 47279
(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;	47280 47281 47282
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	47283 47284 47285
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	47286 47287
(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.	47288 47289 47290 47291
(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:	47292 47293 47294 47295 47296
(1) A dentist licensed under Chapter 4715. of the Revised Code;	47297 47298

(2) Until January 17, 2000, an advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices;	47299 47300 47301
(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;	47302 47303 47304
(4) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	47305 47306 47307
(5) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	47308 47309 47310
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	47311 47312
(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.	47313 47314 47315 47316
(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.	47317 47318 47319
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	47320 47321
(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.	47322 47323 47324 47325 47326
(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily	47327 47328

understandable manner, all of the following:	47329
(1) The proprietary name of the drug product;	47330
(2) The established (generic) name of the drug product;	47331
(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.	47332 47333 47334 47335 47336 47337 47338 47339
(4) The dosage form;	47340
(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.	47341 47342 47343 47344 47345 47346 47347 47348
(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.	47349 47350 47351 47352
(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.	47353 47354 47355
(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	47356 47357 47358

has possession, custody, or control of dangerous drugs for any 47359  
purpose other than for that person's own use and consumption, and 47360  
includes pharmacies, hospitals, nursing homes, and laboratories 47361  
and all other persons who procure dangerous drugs for sale or 47362  
other distribution by or under the supervision of a pharmacist or 47363  
licensed health professional authorized to prescribe drugs. 47364

(R) "Promote to the public" means disseminating a 47365  
representation to the public in any manner or by any means, other 47366  
than by labeling, for the purpose of inducing, or that is likely 47367  
to induce, directly or indirectly, the purchase of a dangerous 47368  
drug at retail. 47369

(S) "Person" includes any individual, partnership, 47370  
association, limited liability company, or corporation, the state, 47371  
any political subdivision of the state, and any district, 47372  
department, or agency of the state or its political subdivisions. 47373

(T) "Finished dosage form" has the same meaning as in section 47374  
3715.01 of the Revised Code. 47375

(U) "Generically equivalent drug" has the same meaning as in 47376  
section 3715.01 of the Revised Code. 47377

(V) "Animal shelter" means a facility operated by a humane 47378  
society or any society organized under Chapter 1717. of the 47379  
Revised Code or a dog pound operated pursuant to Chapter 955. of 47380  
the Revised Code. 47381

(W) "Food" has the same meaning as in section 3715.01 of the 47382  
Revised Code. 47383

**Sec. 4729.41.** (A) A pharmacist licensed under this chapter 47384  
who meets the requirements of division (B) of this section may 47385  
administer, ~~by injection,~~ adult immunizations for any of the 47386  
following: 47387

(1) Influenza; 47388

(2) Pneumonia;	47389
(3) Tetanus;	47390
(4) Hepatitis A;	47391
(5) Hepatitis B.	47392
(B) To be authorized to administer the adult immunizations specified in division (A) of this section, a pharmacist shall do all of the following:	47393 47394 47395
(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;	47396 47397 47398 47399 47400 47401
(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;	47402 47403 47404 47405
(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:	47406 47407 47408 47409 47410
(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.	47411 47412 47413 47414 47415
(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	47416 47417 47418

of health of the health district in which the individual resides. 47419

(C) No pharmacist shall do either of the following: 47420

(1) Engage in the administration of adult immunizations by 47421  
injection unless the requirements of division (B) of this section 47422  
have been met; 47423

(2) Delegate to any person the pharmacist's authority to 47424  
administer adult immunizations. 47425

(D) The state board of pharmacy shall adopt rules to 47426  
implement this section, including rules for approval of courses in 47427  
administration of adult immunizations and approval of protocols to 47428  
be followed by pharmacists in administering adult immunizations. 47429  
Prior to adopting the rules regarding approval of protocols, the 47430  
state board of pharmacy shall consult with the state medical board 47431  
and the board of nursing. The rules shall be adopted in accordance 47432  
with Chapter 119. of the Revised Code. 47433

**Sec. 4731.27.** (A) As used in this section, "collaboration," 47434  
"physician," "standard care arrangement," and "supervision" have 47435  
the same meanings as in section 4723.01 of the Revised Code. 47436

(B) Except as provided in division ~~(C)~~(D)(1) of section 47437  
4723.431 of the Revised Code, a physician or podiatrist shall 47438  
enter into a standard care arrangement with each clinical nurse 47439  
specialist, certified nurse-midwife, or certified nurse 47440  
practitioner with whom the physician or podiatrist is in 47441  
collaboration. The collaborating physician or podiatrist shall 47442  
fulfill the responsibilities of collaboration, as specified in the 47443  
arrangement and in accordance with division (A) of section 47444  
4723.431 of the Revised Code. A copy of the standard care 47445  
arrangement shall be retained on file at each site where the nurse 47446  
practices. Prior approval of the standard care arrangement by the 47447  
state medical board is not required, but the board may 47448

periodically review it. 47449

Nothing in this division prohibits a hospital from hiring a 47450  
clinical nurse specialist, certified nurse-midwife, or certified 47451  
nurse practitioner as an employee and negotiating standard care 47452  
arrangements on behalf of the employee as necessary to meet the 47453  
requirements of this section. A standard care arrangement between 47454  
the hospital's employee and the employee's collaborating physician 47455  
is subject to approval by the medical staff and governing body of 47456  
the hospital prior to implementation of the arrangement at the 47457  
hospital. 47458

(C) With respect to a clinical nurse specialist, certified 47459  
nurse-midwife, or certified nurse practitioner participating in an 47460  
externship pursuant to an initial certificate to prescribe issued 47461  
under section 4723.48 of the Revised Code, the physician 47462  
responsible for evaluating the externship shall provide the state 47463  
medical board with the name of the nurse. If the externship is 47464  
terminated for any reason, the physician shall notify the board. 47465

(D) A physician or podiatrist shall cooperate with the board 47466  
of nursing in any investigation the board conducts with respect to 47467  
a clinical nurse specialist, certified nurse-midwife, or certified 47468  
nurse practitioner who collaborates with the physician or 47469  
podiatrist or with respect to a certified registered nurse 47470  
anesthetist who practices with the supervision of the physician or 47471  
podiatrist. 47472

**Sec. 4731.65.** As used in sections 4731.65 to 4731.71 of the 47473  
Revised Code: 47474

(A)(1) "Clinical laboratory services" means either of the 47475  
following: 47476

(a) Any examination of materials derived from the human body 47477  
for the purpose of providing information for the diagnosis, 47478

prevention, or treatment of any disease or impairment or for the 47479  
assessment of health; 47480

(b) Procedures to determine, measure, or otherwise describe 47481  
the presence or absence of various substances or organisms in the 47482  
body. 47483

(2) "Clinical laboratory services" does not include the mere 47484  
collection or preparation of specimens. 47485

(B) "Designated health services" means any of the following: 47486

(1) Clinical laboratory services; 47487

(2) Home health care services; 47488

(3) Outpatient prescription drugs. 47489

(C) "Fair market value" means the value in arms-length 47490  
transactions, consistent with general market value and: 47491

(1) With respect to rentals or leases, the value of rental 47492  
property for general commercial purposes, not taking into account 47493  
its intended use; 47494

(2) With respect to a lease of space, not adjusted to reflect 47495  
the additional value the prospective lessee or lessor would 47496  
attribute to the proximity or convenience to the lessor if the 47497  
lessor is a potential source of referrals to the lessee. 47498

(D) "Governmental health care program" means any program 47499  
providing health care benefits that is administered by the federal 47500  
government, this state, or a political subdivision of this state, 47501  
including the medicare program established under Title XVIII of 47502  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 47503  
as amended, health care coverage for public employees, health care 47504  
benefits administered by the bureau of workers' compensation, the 47505  
medical assistance program established under Chapter 5111. of the 47506  
Revised Code, and the disability ~~assistance~~ medical assistance 47507  
program established under Chapter 5115. of the Revised Code. 47508

(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: 47542

(a) Each physician who is a member of the group practice 47543  
provides substantially the full range of services that the 47544  
physician routinely provides, including medical care, 47545  
consultation, diagnosis, or treatment, through the joint use of 47546  
shared office space, facilities, equipment, and personnel. 47547

(b) Substantially all of the services of the members of the 47548  
group are provided through the group and are billed in the name of 47549  
the group and amounts so received are treated as receipts of the 47550  
group. 47551

(c) The overhead expenses of and the income from the practice 47552  
are distributed in accordance with methods previously determined 47553  
by members of the group. 47554

(d) The group practice meets any other requirements that the 47555  
state medical board applies in rules adopted under section 4731.70 47556  
of the Revised Code. 47557

(2) In the case of a faculty practice plan associated with a 47558  
hospital with a medical residency training program in which 47559  
physician members may provide a variety of specialty services and 47560  
provide professional services both within and outside the group, 47561  
as well as perform other tasks such as research, the criteria in 47562  
division (E)(1) of this section apply only with respect to 47563  
services rendered within the faculty practice plan. 47564

(F) "Home health care services" and "immediate family" have 47565  
the same meanings as in the rules adopted under section 4731.70 of 47566  
the Revised Code. 47567

(G) "Hospital" has the same meaning as in section 3727.01 of 47568  
the Revised Code. 47569

(H) A "referral" includes both of the following: 47570

(1) A request by a holder of a certificate under this chapter 47571

for an item or service, including a request for a consultation 47572  
with another physician and any test or procedure ordered by or to 47573  
be performed by or under the supervision of the other physician; 47574

(2) A request for or establishment of a plan of care by a 47575  
certificate holder that includes the provision of designated 47576  
health services. 47577

(I) "Third-party payer" has the same meaning as in section 47578  
3901.38 of the Revised Code. 47579

**Sec. 4731.71.** The auditor of state may implement procedures 47580  
to detect violations of section 4731.66 or 4731.69 of the Revised 47581  
Code within governmental health care programs administered by the 47582  
state. The auditor of state shall report any violation of either 47583  
section to the state medical board and shall certify to the 47584  
attorney general in accordance with section 131.02 of the Revised 47585  
Code the amount of any refund owed to a state-administered 47586  
governmental health care program under section 4731.69 of the 47587  
Revised Code as a result of a violation. If a refund is owed to 47588  
the medical assistance program established under Chapter 5111. of 47589  
the Revised Code or the disability ~~assistance~~ medical assistance 47590  
program established under Chapter 5115. of the Revised Code, the 47591  
auditor of state also shall report the amount to the department of 47592  
commerce. 47593

The state medical board also may implement procedures to 47594  
detect violations of section 4731.66 or 4731.69 of the Revised 47595  
Code. 47596

**Sec. 4734.15.** (A) The license provided for in this chapter 47597  
shall entitle the holder thereof to practice chiropractic in this 47598  
state. All of the following apply to the practice of chiropractic 47599  
in this state: 47600

(1) A chiropractor is authorized to examine, diagnose, and 47601

assume responsibility for the care of patients, any or all of 47602  
which is included in the practice of chiropractic. 47603

(2) The practice of chiropractic does not permit the 47604  
chiropractor to treat infectious, contagious, or venereal disease, 47605  
to perform surgery or acupuncture, or to prescribe or administer 47606  
drugs for treatment. 47607

(3) A chiropractor may use roentgen rays only for diagnostic 47608  
purposes. 47609

(4) The practice of chiropractic does not include the 47610  
performance of abortions. 47611

(B) An individual holding a valid, current license to 47612  
practice chiropractic is entitled to use the title "doctor," 47613  
"doctor of chiropractic," "chiropractic physician," or 47614  
"chiropractic" and is a "physician" for the purposes of Chapter 47615  
4123. of the Revised Code ~~and the medicaid program operated~~ 47616  
~~pursuant to Chapter 5111. of the Revised Code.~~ 47617

**Sec. 4736.12.** (A) The state board of sanitarian registration 47618  
shall charge the following fees: 47619

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ 47620  
seventy-five dollars; 47621

(2) For sanitarians-in-training to apply for registration as 47622  
sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 47623  
pay this fee only once regardless of the number of times the 47624  
applicant takes an examination required under section 4736.08 of 47625  
the Revised Code. 47626

(3) For persons other than sanitarians-in-training to apply 47627  
for registration as sanitarians, including persons meeting the 47628  
requirements of section 4736.16 of the Revised Code, one hundred 47629  
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 47630  
regardless of the number of times the applicant takes an 47631

examination required under section 4736.08 of the Revised Code. 47632

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 47633  
~~by the board and shall not exceed sixty one~~ sixty-nine dollars. 47634

(5) The renewal fee for sanitarians-in-training shall be 47635  
~~fixed by the board and shall not exceed sixty one~~ sixty-nine 47636  
dollars. 47637

(6) For late application for renewal, twenty-five dollars. 47638

The board of sanitarian registration, with the approval of 47639  
the controlling board, may establish fees in excess of the amounts 47640  
provided in this section, provided that such fees do not exceed 47641  
the amounts permitted by this section by more than fifty per cent. 47642

(B) The board of sanitarian registration shall charge 47643  
separate fees for examinations as required by section 4736.08 of 47644  
the Revised Code, provided that the fees are not in excess of the 47645  
actual cost to the board of conducting the examinations. 47646

(C) The board of sanitarian registration may adopt rules 47647  
establishing fees for all of the following: 47648

(1) Application for the registration of a training agency 47649  
approved under rules adopted by the board pursuant to section 47650  
4736.11 of the Revised Code and for the annual registration 47651  
renewal of an approved training agency. 47652

(2) Application for the review of continuing education hours 47653  
submitted for the board's approval by approved training agencies 47654  
or by registered sanitarians or sanitarians-in-training. 47655

**Sec. 4743.05.** Except as otherwise provided in sections 47656  
4701.20, 4723.062, 4723.082, and 4729.65 of the Revised Code, all 47657  
money collected under Chapters 3773., 4701., 4703., 4709., 4713., 47658  
4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 47659  
4741., 4753., 4755., 4757., 4758., 4759., ~~and~~ 4761., 4771., and 47660  
4779. of the Revised Code, ~~and until December 31, 2004,~~ money 47661

~~collected under Chapter 4779. of the Revised Code,~~ shall be paid 47662  
into the state treasury to the credit of the occupational 47663  
licensing and regulatory fund, which is hereby created for use in 47664  
administering such chapters. 47665

At the end of each quarter, the director of budget and 47666  
management shall transfer from the occupational licensing and 47667  
regulatory fund to the nurse education assistance fund created in 47668  
section 3333.28 of the Revised Code the amount certified to the 47669  
director under division (B) of section 4723.08 of the Revised 47670  
Code. 47671

At the end of each quarter, the director shall transfer from 47672  
the occupational licensing and regulatory fund to the certified 47673  
public accountant education assistance fund created in section 47674  
4701.26 of the Revised Code the amount certified to the director 47675  
under division (H)(2) of section 4701.10 of the Revised Code. 47676

**Sec. 4747.05.** (A) The hearing aid dealers and fitters 47677  
licensing board shall issue to each applicant, within sixty days 47678  
of receipt of a properly completed application and payment of two 47679  
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 47680  
fitter's license if the applicant, if an individual: 47681

(1) Is at least eighteen years of age; 47682

(2) Is a person of good moral character; 47683

(3) Is free of contagious or infectious disease; 47684

(4) Has successfully passed a qualifying examination 47685  
specified and administered by the board. 47686

(B) If the applicant is a firm, partnership, association, or 47687  
corporation, the application, in addition to such information as 47688  
the board requires, shall be accompanied by an application for a 47689  
license for each person, whether owner or employee, of the firm, 47690  
partnership, association, or corporation, who engages in dealing 47691

in or fitting of hearing aids, or shall contain a statement that 47692  
such applications are submitted separately. No firm, partnership, 47693  
association, or corporation licensed pursuant to this chapter 47694  
shall permit any unlicensed person to sell or fit hearing aids. 47695

(C) Each license issued expires on the thirtieth day of 47696  
January of the year following that in which it was issued. 47697

**Sec. 4747.06.** (A) Each person engaged in the practice of 47698  
dealing in or fitting of hearing aids who holds a valid hearing 47699  
aid dealer's or fitter's license shall apply annually to the 47700  
hearing aid dealers and fitters licensing board for renewal of 47701  
such license under the standard renewal procedure specified in 47702  
Chapter 4745. of the Revised Code. The board shall issue to each 47703  
applicant, on proof of completion of the continuing education 47704  
required by division (B) of this section and payment of one 47705  
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 47706  
February, one hundred ~~seventy-five~~ eighty-three dollars on or 47707  
before the first day of March, or two hundred ten dollars 47708  
thereafter, a renewed hearing aid dealer's or fitter's license. No 47709  
person who applies for renewal of a hearing aid dealer's or 47710  
fitter's license that has expired shall be required to take any 47711  
examination as a condition of renewal provided application for 47712  
renewal is made within two years of the date such license expired. 47713

(B) Each person engaged in the practice of dealing in or 47714  
fitting of hearing aids who holds a valid hearing aid dealer's or 47715  
fitter's license shall complete each year not less than ten hours 47716  
of continuing professional education approved by the board. On a 47717  
form provided by the board, the person shall certify to the board, 47718  
at the time of license renewal pursuant to division (A) of this 47719  
section, that in the preceding year the person has completed 47720  
continuing education in compliance with this division and shall 47721  
submit any additional information required by rule of the board 47722

regarding the continuing education. The board shall adopt rules in 47723  
accordance with Chapter 119. of the Revised Code establishing the 47724  
standards continuing education programs must meet to obtain board 47725  
approval and continuing education reporting requirements. 47726

Continuing education may be applied to meet the requirement 47727  
of this division if it is provided or certified by any of the 47728  
following: 47729

(1) The national institute of hearing instruments studies 47730  
committee of the international hearing society; 47731

(2) The American speech-language hearing association; 47732

(3) The American academy of audiology. 47733

The board may excuse persons licensed under this chapter, as 47734  
a group or as individuals, from all or any part of the 47735  
requirements of this division because of an unusual circumstance, 47736  
emergency, or special hardship. 47737

**Sec. 4747.07.** Each person who holds a hearing aid dealer's or 47738  
fitter's license and engages in the practice of dealing in and 47739  
fitting of hearing aids shall display such license in a 47740  
conspicuous place in the person's office or place of business at 47741  
all times. Each person who maintains more than one office or place 47742  
of business shall post a duplicate copy of the license at each 47743  
location. The hearing aid dealers and fitters licensing board 47744  
shall issue duplicate copies of a license upon receipt of a 47745  
properly completed application and payment of ~~fifteen~~ sixteen 47746  
dollars for each copy requested. 47747

**Sec. 4747.10.** Each person currently engaged in training to 47748  
become a licensed hearing aid dealer or fitter shall apply to the 47749  
hearing aid dealers and fitters licensing board for a hearing aid 47750  
dealer's and fitter's trainee permit. The board shall issue to 47751  
each applicant within thirty days of receipt of a properly 47752

completed application and payment of one hundred fifty dollars, a 47753  
trainee permit if such applicant is: 47754

(A) At least eighteen years of age; 47755

(B) The holder of a diploma from an accredited high school, 47756  
or possesses an equivalent education; 47757

(C) A person of good moral character; 47758

(D) Free of contagious or infectious disease. 47759

Each trainee permit issued by the board expires one year from 47760  
the date it was first issued, and may be renewed once if the 47761  
trainee has not successfully completed the qualifying requirements 47762  
for licensing as a hearing aid dealer or fitter before the 47763  
expiration date of such permit. The board shall issue a renewed 47764  
permit to each applicant upon receipt of a properly completed 47765  
application and payment of one hundred five dollars. No person 47766  
holding a trainee permit shall engage in the practice of dealing 47767  
in or fitting of hearing aids except while under supervision by a 47768  
licensed hearing aid dealer or fitter. 47769

**Sec. 4749.01.** As used in this chapter: 47770

(A) "Private investigator" means any person who engages in 47771  
the business of private investigation. 47772

(B) "Business of private investigation" means, except when 47773  
performed by one excluded under division (H) of this section, the 47774  
conducting, for hire, in person or through a partner or employees, 47775  
of any investigation relevant to any crime or wrong done or 47776  
threatened, or to obtain information on the identity, habits, 47777  
conduct, movements, whereabouts, affiliations, transactions, 47778  
reputation, credibility, or character of any person, or to locate 47779  
and recover lost or stolen property, or to determine the cause of 47780  
or responsibility for any libel or slander, or any fire, accident, 47781  
or damage to property, or to secure evidence for use in any 47782

legislative, administrative, or judicial investigation or 47783  
proceeding. 47784

(C) "Security guard provider" means any person who engages in 47785  
the business of security services. 47786

(D) "Business of security services" means either of the 47787  
following: 47788

(1) Furnishing, for hire, watchpersons, guards, private 47789  
patrol officers, or other persons whose primary duties are to 47790  
protect persons or property; 47791

(2) Furnishing, for hire, guard dogs, or armored motor 47792  
vehicle security services, in connection with the protection of 47793  
persons or property. 47794

(E) "Class A license" means a license issued under section 47795  
4749.03 of the Revised Code that qualifies the person issued the 47796  
license to engage in the business of private investigation and the 47797  
business of security services. 47798

(F) "Class B license" means a license issued under section 47799  
4749.03 of the Revised Code that qualifies the person issued the 47800  
license to engage only in the business of private investigation. 47801

(G) "Class C license" means a license issued under section 47802  
4749.03 of the Revised Code that qualifies the person issued the 47803  
license to engage only in the business of security services. 47804

(H) "Private investigator," "business of private 47805  
investigation," "security guard provider," and "business of 47806  
security services" do not include: 47807

(1) Public officers and employees whose official duties 47808  
require them to engage in investigatory activities; 47809

(2) Attorneys at law or any expert hired by an attorney at 47810  
law for consultation or litigation purposes; 47811

(3) A consumer reporting agency, as defined in the "Fair 47812

Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 47813  
amended, provided that the consumer reporting agency is in 47814  
compliance with the requirements of that act and that the agency's 47815  
activities are confined to any of the following: 47816

(a) The issuance of consumer credit reports; 47817

(b) The conducting of limited background investigations that 47818  
pertain only to a client's prospective tenant and that are engaged 47819  
in with the prior written consent of the prospective tenant; 47820

(c) The business of pre-employment background investigation. 47821  
As used in division (H)(3)(c) of this section, "business of 47822  
pre-employment background investigation" means, and is limited to, 47823  
furnishing for hire, in person or through a partner or employees, 47824  
the conducting of limited background investigations, in-person 47825  
interviews, telephone interviews, or written inquiries that 47826  
pertain only to a client's prospective employee and the employee's 47827  
employment and that are engaged in with the prior written consent 47828  
of the prospective employee. 47829

(4) Certified public insurance adjusters that hold a 47830  
certificate of authority issued pursuant to sections 3951.01 to 47831  
3951.09 of the Revised Code, while the adjuster is investigating 47832  
the cause of or responsibility for a fire, accident, or other 47833  
damage to property with respect to a claim or claims for loss or 47834  
damage under a policy of insurance covering real or personal 47835  
property; 47836

~~(5) Personnel placement services and persons who act as 47837  
employees of such entities engaged in investigating matters 47838  
related to personnel placement activities; 47839~~

~~(6) An employee in the regular course of the employee's 47840  
employment, engaged in investigating matters pertinent to the 47841  
business of the employee's employer or protecting property in the 47842  
possession of the employee's employer, provided the employer is 47843~~

deducting all applicable state and federal employment taxes on 47844  
behalf of the employee and neither the employer nor the employee 47845  
is employed by, associated with, or acting for or on behalf of any 47846  
private investigator or security guard provider; 47847

~~(7)~~(6) Any better business bureau or similar organization or 47848  
any of its employees while engaged in the maintenance of the 47849  
quality of business activities relating to consumer sales and 47850  
services; 47851

~~(8)~~(7) An accountant who is registered or certified under 47852  
Chapter 4701. of the Revised Code or any of the accountant's 47853  
employees while engaged in activities for which the accountant is 47854  
certified or registered; 47855

~~(9)~~(8) Any person who, for hire or otherwise, conducts 47856  
genealogical research in this state. 47857

As used in division (H)~~(9)~~(8) of this section, "genealogical 47858  
research" means the determination of the origins and descent of 47859  
families, including the identification of individuals, their 47860  
family relationships, and the biographical details of their lives. 47861  
"Genealogical research" does not include furnishing for hire 47862  
services for locating missing persons or natural or birth parents 47863  
or children. 47864

~~(10)~~(9) Any person residing in this state who conducts 47865  
research for the purpose of locating the last known owner of 47866  
unclaimed funds, provided that the person is in compliance with 47867  
Chapter 169. of the Revised Code and rules adopted thereunder. The 47868  
exemption set forth in division (H)~~(10)~~(9) of this section applies 47869  
only to the extent that the person is conducting research for the 47870  
purpose of locating the last known owner of unclaimed funds. 47871

As used in division (H)~~(10)~~(9) of this section, "owner" and 47872  
"unclaimed funds" have the same meanings as in section 169.01 of 47873  
the Revised Code. 47874

~~(11)~~(10) A professional engineer who is registered under Chapter 4733. of the Revised Code or any of his employees. 47875  
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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. 47877  
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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. 47880  
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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. 47885  
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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 47894  
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of the following: 47906

(a) An attorney who adjusts insurance losses incidental to 47907  
the practice of law and who does not advertise or represent that 47908  
the attorney is an independent insurance adjuster; 47909

(b) A licensed agent or general agent of an insurer licensed 47910  
in this state who processes undisputed or uncontested losses for 47911  
insurers under policies issued by that agent or general agent. 47912

(14) Except for a commissioned peace officer who engages in 47913  
the business of private investigation or compensates others who 47914  
engage in the business of private investigation or the business of 47915  
security services or both, any commissioned peace officer as 47916  
defined in division (B) of section 2935.01 of the Revised Code. 47917

(I) "Employee" means every person who may be required or 47918  
directed by any employer, in consideration of direct or indirect 47919  
gain or profit, to engage in any employment, or to go, or work, or 47920  
be at any time in any place of employment, provided that the 47921  
employer of the employee deducts all applicable state and federal 47922  
employment taxes on behalf of the employee. 47923

**Sec. 4749.02.** The ~~department~~ director of ~~commerce public~~ 47924  
~~safety~~ shall administer this chapter ~~through the division of real~~ 47925  
~~estate and professional licensing~~, and for that purpose, ~~the~~ 47926  
~~superintendent of real estate and professional licensing~~ may 47927  
appoint such employees and adopt such rules as the ~~superintendent~~ 47928  
director considers necessary. 47929

**Sec. 4749.03.** (A)(1) Any individual, including a partner in a 47930  
partnership, may be licensed as a private investigator under a 47931  
class B license, or as a security guard provider under a class C 47932  
license, or as a private investigator and a security guard 47933  
provider under a class A license, if the individual meets the 47934  
following requirements: 47935

(a) Has a good reputation for integrity, has not been 47936  
convicted of a felony within the last twenty years or any offense 47937  
involving moral turpitude, and has not been adjudicated 47938  
incompetent for the purpose of holding the license, as provided in 47939  
section 5122.301 of the Revised Code, without having been restored 47940  
to legal capacity for that purpose. 47941

(b) Depending upon the class of license for which application 47942  
is made, for a continuous period of at least two years immediately 47943  
preceding application for a license, has been engaged in 47944  
investigatory or security services work for a law enforcement or 47945  
other public agency engaged in investigatory activities, or for a 47946  
private investigator or security guard provider, or engaged in the 47947  
practice of law, or has acquired equivalent experience as 47948  
determined by rule of the director of ~~commerce~~ public safety. 47949

(c) Demonstrates competency as a private investigator or 47950  
security guard provider by passing an examination devised for this 47951  
purpose by the director, except that any individually licensed 47952  
person who qualifies a corporation for licensure shall not be 47953  
required to be reexamined if the person qualifies the corporation 47954  
in the same capacity that the person was individually licensed. 47955

(d) Submits evidence of comprehensive general liability 47956  
insurance coverage, or other equivalent guarantee approved by the 47957  
director in such form and in principal amounts satisfactory to the 47958  
director, but not less than one hundred thousand dollars for each 47959  
person and three hundred thousand dollars for each occurrence for 47960  
bodily injury liability, and one hundred thousand dollars for 47961  
property damage liability. 47962

(e) Pays the requisite examination and license fees. 47963

(2) A corporation may be licensed as a private investigator 47964  
under a class B license, or as a security guard provider under a 47965  
class C license, or as a private investigator and a security guard 47966

provider under a class A license, if an application for licensure 47967  
is filed by an officer of the corporation and the officer, another 47968  
officer, or the qualifying agent of the corporation satisfies the 47969  
requirements of divisions (A)(1) and (F)(1) of this section. 47970  
Officers and the statutory agent of a corporation shall be 47971  
determined in accordance with Chapter 1701. of the Revised Code. 47972

(3) At least one partner in a partnership shall be licensed 47973  
as a private investigator, or as a security guard provider, or as 47974  
a private investigator and a security guard provider. Partners in 47975  
a partnership shall be determined as provided for in Chapter 1775. 47976  
of the Revised Code. 47977

(B) Application for a class A, B, or C license shall be in 47978  
writing, under oath, to the director. In the case of an 47979  
individual, the application shall state the applicant's name, 47980  
birth date, citizenship, physical description, current residence, 47981  
residences for the preceding ten years, current employment, 47982  
employment for the preceding seven years, experience 47983  
qualifications, the location of each of the applicant's offices in 47984  
this state, and any other information that is necessary in order 47985  
for the director to comply with the requirements of this chapter. 47986  
In the case of a corporation, the application shall state the name 47987  
of the officer or qualifying agent filing the application; the 47988  
state in which the corporation is incorporated and the date of 47989  
incorporation; the states in which the corporation is authorized 47990  
to transact business; the name of its qualifying agent; the name 47991  
of the officer or qualifying agent of the corporation who 47992  
satisfies the requirements of divisions (A)(1) and (F)(1) of this 47993  
section and the birth date, citizenship, physical description, 47994  
current residence, residences for the preceding ten years, current 47995  
employment, employment for the preceding seven years, and 47996  
experience qualifications of that officer or qualifying agent; and 47997  
other information that the director requires. A corporation may 47998

specify in its application information relative to one or more 47999  
individuals who satisfy the requirements of divisions (A)(1) and 48000  
(F)(1) of this section. 48001

The application shall be accompanied by: 48002

(1) One recent full-face photograph of the applicant or, in 48003  
the case of a corporation, of each officer or qualifying agent 48004  
specified in the application as satisfying the requirements of 48005  
divisions (A)(1) and (F)(1) of this section; 48006

(2) One complete set of the applicant's fingerprints or, in 48007  
the case of a corporation, of the fingerprints of each officer or 48008  
qualifying agent specified in the application as satisfying the 48009  
requirements of divisions (A)(1) and (F)(1) of this section; 48010

(3) Character references from at least five reputable 48011  
citizens for the applicant or, in the case of a corporation, for 48012  
each officer or qualifying agent specified in the application as 48013  
satisfying the requirements of divisions (A)(1) and (F)(1) of this 48014  
section, each of whom has known the applicant, officer, or 48015  
qualifying agent for at least five years preceding the 48016  
application, and none of whom are connected with the applicant, 48017  
officer, or qualifying agent by blood or marriage; 48018

(4) An examination fee of twenty-five dollars for the 48019  
applicant or, in the case of a corporation, for each officer or 48020  
qualifying agent specified in the application as satisfying the 48021  
requirements of divisions (A)(1) and (F)(1) of this section, and a 48022  
license fee of two hundred fifty dollars. The license fee shall be 48023  
refunded if a license is not issued. 48024

(C) Upon receipt of the application and accompanying matter, 48025  
the director shall forward to the bureau of criminal 48026  
identification and investigation a request that it make an 48027  
investigation of the applicant or, in the case of a corporation, 48028  
each officer or qualifying agent specified in the application as 48029

satisfying the requirements of divisions (A)(1) and (F)(1) of this section, to determine whether the applicant, officer, or qualifying agent meets the requirements of division (A)(1)(a) of this section. If the director determines that the applicant, officer, or qualifying agent meets the requirements of divisions (A)(1)(a), (b) and (d) of this section and that an officer or qualifying agent meets the requirement of division (F)(1) of this section, the director shall notify the applicant, officer, or agent of the time and place for the examination. If the director determines that an applicant does not meet the requirements of divisions (A)(1)(a), (b), and (d) of this section, the director shall notify the applicant that the applicant's application is refused and refund the license fee. If the director determines that none of the individuals specified in the application of a corporation as satisfying the requirements of divisions (A)(1) and (F)(1) of this section meet the requirements of divisions (A)(1)(a), (b), and (d) and (F)(1) of this section, the director shall notify the corporation that its application is refused and refund the license fee. If the director requests an investigation of any applicant, officer, or qualifying agent 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 applicant, officer, or qualifying agent, as appropriate, a fee that is equal to the fee assessed by the bureau.

(D) If upon application, investigation, and examination, the director finds that the applicant or, in the case of a corporation, any officer or qualifying agent specified in the application as satisfying the requirements of divisions (A)(1) and (F)(1) of this section, meets the applicable requirements, the director shall issue the applicant or the corporation a class A, B, or C license. The director also shall issue to an applicant, but not an officer or qualifying agent of a corporation, who meets

the applicable requirements an identification card. The license 48063  
and identification card shall state the licensee's name, the 48064  
classification of the license, the location of the licensee's 48065  
principal place of business in this state, and the expiration date 48066  
of the license and, in the case of a corporation, it also shall 48067  
state the name of each officer or qualifying agent who satisfied 48068  
the requirements of divisions (A)(1) and (F)(1) of this section. 48069

Licenses expire on the first day of March following the date 48070  
of initial issue, and on the first day of March of each year 48071  
thereafter. Renewals shall be according to the standard renewal 48072  
procedures contained in Chapter 4745. of the Revised Code, upon 48073  
payment of a renewal fee of two hundred fifty dollars. No license 48074  
shall be renewed if the licensee or, in the case of a corporation, 48075  
each officer or qualifying agent who qualified the corporation for 48076  
licensure no longer meets the applicable requirements of this 48077  
section. No license shall be renewed unless the licensee provides 48078  
evidence of workers' compensation risk coverage and unemployment 48079  
compensation insurance coverage, other than for clerical employees 48080  
and excepting sole proprietors who are exempted therefrom, as 48081  
provided for in Chapters 4123. and 4141. of the Revised Code, 48082  
respectively, as well as the licensee's state tax identification 48083  
number. No reexamination shall be required for renewal of a 48084  
current license. 48085

For purposes of this chapter, a class A, B, or C license 48086  
issued to a corporation shall be considered as also having 48087  
licensed the individuals who qualified the corporation for 48088  
licensure, for as long as they are associated with the 48089  
corporation. 48090

For purposes of this division, "sole proprietor" means an 48091  
individual licensed under this chapter who does not employ any 48092  
other individual. 48093

(E) The director may issue a duplicate copy of a license 48094

issued under this section for the purpose of replacement of a 48095  
lost, spoliated, or destroyed license, upon payment of a fee fixed 48096  
by the director, not exceeding twenty-five dollars. Any change in 48097  
license classification requires new application and application 48098  
fees. 48099

(F)(1) In order to qualify a corporation for a class A, B, or 48100  
C license, an officer or qualifying agent may qualify another 48101  
corporation for similar licensure, provided that the officer or 48102  
qualifying agent is actively engaged in the business of both 48103  
corporations. 48104

(2) Each officer or qualifying agent who qualifies a 48105  
corporation for class A, B, or C licensure shall surrender any 48106  
personal license of a similar nature that the officer or 48107  
qualifying agent possesses. 48108

(3) Upon written notification to the director, completion of 48109  
an application similar to that for original licensure, surrender 48110  
of the corporation's current license, and payment of a twenty-five 48111  
dollar fee, a corporation's class A, B, or C license may be 48112  
transferred to another corporation. 48113

(4) Upon written notification to the director, completion of 48114  
an application similar to that for an individual seeking class A, 48115  
B, or C licensure, payment of a twenty-five dollar fee, and, if 48116  
the individual was the only individual that qualified a 48117  
corporation for licensure, surrender of the corporation's license, 48118  
any officer or qualifying agent who qualified a corporation for 48119  
licensure under this chapter may obtain a similar license in the 48120  
individual's own name without reexamination. A request by an 48121  
officer or qualifying agent for an individual license shall not 48122  
affect a corporation's license unless the individual is the only 48123  
individual that qualified the corporation for licensure or all the 48124  
other individuals who qualified the corporation for licensure 48125  
submit such requests. 48126

(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 any judicial proceeding; 48157  
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(5) Failure to satisfy the requirements specified in division (D) of section 4749.03 of the Revised Code. 48159  
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Any person whose license or registration is revoked, suspended, or not renewed when a renewal form is submitted may appeal in accordance with Chapter 119. of the Revised Code. 48161  
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(B) In lieu of suspending, revoking, or refusing to renew the class A, B, or C license, or of suspending, revoking, or refusing to renew the registration of an employee of a class A, B, or C licensee, the director ~~of commerce~~ may impose a civil penalty of not more than one hundred dollars for each calendar day of a violation of any of the provisions of this section or of division (B) or (C) of section 4749.13 of the Revised Code or of a violation of any rule of the director governing private investigators, the business of private investigation, security guard providers, or the business of security services. 48164  
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**Sec. 4749.05.** (A) Each class A, B, or C licensee shall report the location of branch offices to the department of ~~commerce~~ public safety, and to the sheriff of the county and the police chief of any municipal corporation in which the office is located, and shall post a branch office license conspicuously in that office. Application for a branch office license shall be made on a form prescribed by the director of ~~commerce~~ public safety, and a license shall be issued upon receipt of the form and payment of a fee fixed by the director, not exceeding one hundred dollars. If a licensee moves an office, ~~he~~ the licensee shall notify, in writing, the department of ~~commerce~~ public safety and any affected sheriff and chief of police within forty-eight hours of the change. 48174  
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This division does not apply to a licensed private 48187  
investigator who is engaging in the business of private 48188  
investigation as a registered employee of a licensed private 48189  
investigator. 48190

(B) No class A, B, or C licensee, or any of ~~his~~ such a 48191  
licensee's employees, shall engage in the business of private 48192  
investigation or the business of security services unless, within 48193  
twelve hours ~~of his arrival~~ after arriving, ~~he~~ the licensee or 48194  
employee reports ~~his~~ the licensee's or employee's presence and 48195  
length of stay to the sheriff and police chief of any county or 48196  
municipal corporation in which ~~he~~ the licensee or employee 48197  
operates. 48198

**Sec. 4749.06.** (A) Each class A, B, or C licensee shall 48199  
register the licensee's investigator or security guard employees, 48200  
with the department of ~~commerce~~ public safety, which shall 48201  
maintain a record of each licensee and registered employee and 48202  
make it available, upon request, to any law enforcement agency. 48203  
The class A, B, or C licensee shall file an application to 48204  
register a new employee no sooner than three days nor later than 48205  
seven calendar days after the date on which the employee is hired. 48206

(B)(1) Each employee's registration application shall be 48207  
accompanied by one complete set of the employee's fingerprints, 48208  
one recent photograph of the employee, the employee's physical 48209  
description, and an eighteen-dollar registration fee. 48210

(2) If the director of public safety requests the bureau of 48211  
criminal identification and investigation to conduct an 48212  
investigation of a licensee's employee and if the bureau assesses 48213  
the director a fee for the investigation, the director, in 48214  
addition to any other fee assessed pursuant to this chapter, may 48215  
assess the licensee a fee that is equal to the fee assessed by the 48216  
bureau. If, after investigation, the bureau finds that the 48217

employee has not been convicted of a felony within the last twenty 48218  
years, the director shall issue to the employee an identification 48219  
card bearing the license number and signature of the licensee, 48220  
which in the case of a corporation shall be the signature of its 48221  
president or its qualifying agent, and containing the employee's 48222  
name, address, age, physical description, and right thumb print or 48223  
other identifying mark as the director prescribes, a recent 48224  
photograph of the employee, and the employee's signature. The 48225  
director may issue a duplicate of a lost, spoliated, or destroyed 48226  
identification card issued under this section, upon payment of a 48227  
fee fixed by the director, not exceeding five dollars. 48228

(C) Except as provided in division (E) of this section, no 48229  
class A, B, or C licensee shall permit an employee, other than an 48230  
individual who qualified a corporation for licensure, to engage in 48231  
the business of private investigation, the business of security 48232  
services, or both businesses until the employee receives an 48233  
identification card from the department, except that pending the 48234  
issuance of an identification card, a class A, B, or C licensee 48235  
may offer for hire security guard or investigator employees 48236  
provided the licensee obtains a waiver from the person who 48237  
receives, for hire, security guard or investigative services, 48238  
acknowledging that the person is aware the employees have not 48239  
completed their registration and agreeing to their employment. 48240

(D) If a class A, B, or C licensee, or a registered employee 48241  
of a class A, B, or C licensee, intends to carry a firearm, as 48242  
defined in section 2923.11 of the Revised Code, in the course of 48243  
engaging in the business or employment, the licensee or registered 48244  
employee shall satisfactorily complete a firearms basic training 48245  
program that includes twenty hours of handgun training and five 48246  
hours of training in the use of other firearms, if any other 48247  
firearm is to be used, or equivalency training, if authorized, or 48248  
shall be a former peace officer who previously had successfully 48249

completed a firearms training course, shall receive a certificate 48250  
of satisfactory completion of that program or written evidence of 48251  
approval of the equivalency training, shall file an application 48252  
for registration, shall receive a firearm-bearer notation on the 48253  
licensee's or registered employee's identification card, and shall 48254  
annually requalify on a firearms range, all as described in 48255  
division (A) of section 4749.10 of the Revised Code. A private 48256  
investigator, security guard provider, or employee is authorized 48257  
to carry a firearm only in accordance with that division. 48258

(E) This section does not apply to commissioned peace 48259  
officers, as defined in division (B) of section 2935.01 of the 48260  
Revised Code, working for, either as an employee or independent 48261  
contractor, a class A, B, or C licensee. For purposes of this 48262  
chapter, a commissioned peace officer is an employee exempt from 48263  
registration. 48264

**Sec. 4749.07.** (A) After refund of any license fees as 48265  
required by section 4749.03 of the Revised Code, the department of 48266  
~~commerce~~ public safety shall pay all fees received pursuant to 48267  
this chapter to the treasurer of state, to be credited to the 48268  
private investigator and security guard provider fund, which is 48269  
hereby created. 48270

(B) Moneys received in payment of fines levied pursuant to 48271  
section 4749.99 of the Revised Code shall be distributed as 48272  
follows: 48273

(1) One-third to the general fund of the municipal 48274  
corporation or township in which the prosecution occurs; 48275

(2) One-third to the general fund of the county in which the 48276  
prosecution occurs; 48277

(3) One-third to the private investigator and security guard 48278  
provider fund. 48279

**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 48310  
employee is a former peace officer, as defined in section 109.71 48311  
of the Revised Code, who previously had successfully completed a 48312  
firearms training course at a training school approved by the Ohio 48313  
peace officer training commission and has received a certificate 48314  
or other evidence of satisfactory completion of that course from 48315  
the executive director of the commission. 48316

(2) The licensee or employee submits an application to the 48317  
director of ~~commerce~~ public safety, on a form prescribed by the 48318  
director, in which the licensee or employee requests registration 48319  
as a class A, B, or C licensee or employee who may carry a 48320  
firearm. The application shall be accompanied by a copy of the 48321  
certificate or the written evidence or other evidence described in 48322  
division (A)(1) of this section, the identification card issued 48323  
pursuant to section 4749.03 or 4749.06 of the Revised Code if one 48324  
has previously been issued, a statement of the duties that will be 48325  
performed while the licensee or employee is armed, and a fee of 48326  
ten dollars. In the case of a registered employee, the statement 48327  
shall be prepared by the employing class A, B, or C licensee. 48328

(3) The licensee or employee receives a notation on the 48329  
licensee's or employee's identification card that the licensee or 48330  
employee is a firearm-bearer and carries the identification card 48331  
whenever the licensee or employee carries a firearm in the course 48332  
of engaging in the business of private investigation, the business 48333  
of security services, or both businesses. 48334

(4) At any time within the immediately preceding twelve-month 48335  
period, the licensee or employee has requalified in firearms use 48336  
on a firearms training range at a firearms requalification program 48337  
certified by the Ohio peace officer training commission or on a 48338  
firearms training range under the supervision of an instructor 48339  
certified by the commission and has received a certificate of 48340  
satisfactory requalification from the certified program or 48341

certified instructor, provided that this division does not apply 48342  
to any licensee or employee prior to the expiration of eighteen 48343  
months after the licensee's or employee's completion of the 48344  
program described in division (A)(1) of this section. A 48345  
certificate of satisfactory requalification is valid and remains 48346  
in effect for twelve months from the date of the requalification. 48347

(5) If division (A)(4) of this section applies to the 48348  
licensee or employee, the licensee or employee carries the 48349  
certificate of satisfactory requalification that then is in effect 48350  
or any other evidence of requalification issued or provided by the 48351  
director. 48352

(B)(1) The director ~~of commerce~~ shall register an applicant 48353  
under division (A) of this section who satisfies divisions (A)(1) 48354  
and (2) of this section, and place a notation on the applicant's 48355  
identification card indicating that the applicant is a 48356  
firearm-bearer and the date on which the applicant completed the 48357  
program described in division (A)(1) of this section. 48358

(2) A firearms requalification training program or instructor 48359  
certified by the commission for the annual requalification of 48360  
class A, B, or C licensees or employees who are authorized to 48361  
carry a firearm under section 4749.10 of the Revised Code shall 48362  
award a certificate of satisfactory requalification to each class 48363  
A, B, or C licensee or registered employee of a class A, B, or C 48364  
licensee who satisfactorily requalifies in firearms training. The 48365  
certificate shall identify the licensee or employee and indicate 48366  
the date of the requalification. A licensee or employee who 48367  
receives such a certificate shall submit a copy of it to the 48368  
director ~~of commerce~~. A licensee shall submit the copy of the 48369  
requalification certificate at the same time that the licensee 48370  
makes application for renewal of the licensee's class A, B, or C 48371  
license. The director shall keep a record of all copies of 48372  
requalification certificates the director receives under this 48373

division and shall establish a procedure for the updating of 48374  
identification cards to provide evidence of compliance with the 48375  
annual requalification requirement. The procedure for the updating 48376  
of identification cards may provide for the issuance of a new card 48377  
containing the evidence, the entry of a new notation containing 48378  
the evidence on the existing card, the issuance of a separate card 48379  
or paper containing the evidence, or any other procedure 48380  
determined by the director to be reasonable. Each person who is 48381  
issued a requalification certificate under this division promptly 48382  
shall pay to the Ohio peace officer training commission 48383  
established by section 109.71 of the Revised Code a fee of five 48384  
dollars, which fee shall be transmitted to the treasurer of state 48385  
for deposit in the peace officer private security fund established 48386  
by section 109.78 of the Revised Code. 48387

**Sec. 4749.11.** (A) The director of ~~commerce~~ public safety may 48388  
investigate any applicant for a class A, B, or C license, any 48389  
principal officer or qualifying agent of a corporation who is 48390  
specified in an application for licensure as satisfying the 48391  
requirements of divisions (A)(1) and (F)(1) of section 4749.03 of 48392  
the Revised Code, and any employee of a class A, B, or C licensee 48393  
who seeks to be registered under section 4749.06 of the Revised 48394  
Code to determine whether the individual satisfies the applicable 48395  
requirements for licensure or registration. 48396

(B) The director of ~~commerce~~ may investigate, on ~~his~~ the 48397  
director's own initiative, the actions or proposed actions of a 48398  
class A, B, or C licensee, or registered employee of a class A, B, 48399  
or C licensee to determine whether the person is, has been, or 48400  
will be in violation of section 4749.13 of the Revised Code. The 48401  
director shall investigate any of these persons if a verified 48402  
written complaint is filed indicating that a person has violated, 48403  
or is or will be violating, section 4749.13 of the Revised Code, 48404  
the complaint is supported by evidence submitted with it, and the 48405

director determines that a prima-facie case exists that a 48406  
violation of that section is being, has been, or will be committed 48407  
by the person. 48408

(C) The director ~~of commerce~~ may investigate, on ~~his~~ the 48409  
director's own initiative, the actions or proposed actions of a 48410  
person who is not licensed or registered under this chapter and 48411  
who appears to be acting as a class A, B, or C licensee, or 48412  
employee of a class A, B, or C licensee. The director shall 48413  
investigate such a person if a verified written complaint is filed 48414  
indicating that a person was, is, or will be acting as a class A, 48415  
B, or C licensee or employee of a class A, B, or C licensee but is 48416  
not licensed or registered as such under this chapter, the 48417  
complaint is supported by evidence that is submitted with it, and 48418  
the director determines that a prima-facie case exists that the 48419  
person was, is, or will be acting in the alleged manner. 48420

(D) In connection with investigations under divisions (B) and 48421  
(C) of this section, the director ~~of commerce~~ may file an action 48422  
with the court of common pleas of Franklin county or the court of 48423  
common pleas of the county in which the person who is the subject 48424  
of the investigation resides, is engaging in actions, or proposing 48425  
to engage in actions, to obtain an injunction, restraining order, 48426  
or other appropriate relief. 48427

(E) The director ~~of commerce~~ may compel by subpoena witnesses 48428  
to appear and testify in relation to investigations under this 48429  
chapter and may require by subpoena duces tecum the production of 48430  
any book, paper, or document pertaining to an investigation. If a 48431  
person does not comply with a subpoena or subpoena duces tecum, 48432  
the director ~~of commerce~~ may apply to the court of common pleas of 48433  
Franklin county for an order compelling the person to comply with 48434  
the subpoena or subpoena duces tecum or, for failure to do so, to 48435  
be held in contempt of court. 48436

(F) If, in an investigation under division (C) of this 48437

section, the director determines that a person is not a class A, 48438  
B, or C licensee, or a registered employee of a class A, B, or C 48439  
licensee, and that the person was, is, or will be acting in the 48440  
alleged manner, the director may issue an order to the person to 48441  
show cause why ~~he~~ the person should not be subject to licensing or 48442  
registration under this chapter. The director shall hold a hearing 48443  
on the order, and if following the hearing ~~he~~ the director 48444  
determines that the person has engaged, or is or will be engaging, 48445  
in activities requiring licensure or registration under this 48446  
chapter, ~~he~~ the director may issue a cease and desist order that 48447  
shall describe the person and the activities that are the subject 48448  
of it. The cease and desist order is enforceable in and may be 48449  
appealed to a court of common pleas pursuant to Chapter 119. of 48450  
the Revised Code. 48451

(G) In any proceeding or action brought under this chapter, 48452  
the burden of proving an exemption from the licensure requirements 48453  
of this chapter is on the person claiming the benefit of the 48454  
exemption. 48455

**Sec. 4749.12.** (A) A person who is a resident of another 48456  
state, is licensed as a private investigator, security guard 48457  
provider, or as a private investigator and a security guard 48458  
provider in another state, and wishes to engage in the business of 48459  
private investigation, the business of security services, or both 48460  
businesses in this state, shall be licensed pursuant to section 48461  
4749.03 of the Revised Code, but the director of ~~commerce~~ public 48462  
safety may waive the examination requirement of that section and 48463  
issue a license to a nonresident under the circumstances described 48464  
in division (B) of this section. 48465

(B) If a nonresident private investigator, security guard 48466  
provider, or private investigator and security guard provider 48467  
seeking licensure under this chapter submits with the application 48468

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; 48500

(2) Knowingly make a false report with respect to any matter 48501  
with which ~~he~~ the licensee or registered employee is employed; 48502

(3) Divulge any information acquired from or for a client to 48503  
persons other than the client or ~~his~~ the client's authorized agent 48504  
without express authorization to do so or unless required by law; 48505

(4) Knowingly accept employment which includes obtaining 48506  
information intended for illegal purposes. 48507

(C) No person shall knowingly authorize or permit another 48508  
person to violate any provision of this chapter or any rule of the 48509  
director of ~~commerce~~ adopted for the administration of this 48510  
chapter. 48511

(D) No person who is not licensed as a class A, B, or C 48512  
licensee shall advertise that ~~he~~ the person is or otherwise hold 48513  
~~himself~~ self out as a class A, B, or C licensee. This division 48514  
does not prohibit registered employees from indicating in the 48515  
course of authorized employment for a class A, B, or C licensee 48516  
that they are authorized to engage in investigatory, security 48517  
services activities, or both activities. 48518

**Sec. 4749.14.** On receipt of a notice pursuant to section 48519  
3123.43 of the Revised Code, the director of ~~commerce~~ public 48520  
safety shall comply with sections 3123.41 to 3123.50 of the 48521  
Revised Code and any applicable rules adopted under section 48522  
3123.63 of the Revised Code with respect to a license issued 48523  
pursuant to this chapter. 48524

**Sec. 4751.06.** (A) An applicant for licensure as a nursing 48525  
home administrator who has successfully completed the requirements 48526  
of section 4751.05 of the Revised Code, passed the examination 48527  
administered by the board of examiners of nursing home 48528  
administrators or a government or private entity under contract 48529

with the board, and paid to the board an original license fee of 48530  
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 48531  
provided by the board. Such license shall certify that the 48532  
applicant has met the licensure requirements of Chapter 4751. of 48533  
the Revised Code and is entitled to practice as a licensed nursing 48534  
home administrator. 48535

(B) A temporary license for a period not to exceed one 48536  
hundred eighty days may be issued to an individual temporarily 48537  
filling the position of a nursing home administrator vacated by 48538  
reason of death, illness, or other unexpected cause, pursuant to 48539  
regulations adopted by the board. 48540

(C) The fee for a temporary license is one hundred dollars. 48541  
Said fee must accompany the application for the temporary license. 48542

(D) Any license or temporary license issued by the board 48543  
pursuant to this section shall be under the hand of the 48544  
chairperson and the secretary of the board. 48545

(E) A duplicate of the original certificate of registration 48546  
or license may be secured to replace one that has been lost or 48547  
destroyed by submitting to the board a notarized statement 48548  
explaining the conditions of the loss, mutilation, or destruction 48549  
of the certificate or license and by paying a fee of twenty-five 48550  
dollars. 48551

(F) A duplicate certificate of registration and license may 48552  
be issued in the event of a legal change of name by submitting to 48553  
the board a certified copy of the court order or marriage license 48554  
establishing the change of name, by returning at the same time the 48555  
original license and certificate of registration, and by paying a 48556  
fee of twenty-five dollars. 48557

**Sec. 4751.07.** (A) Every individual who holds a valid license 48558  
as a nursing home administrator issued under division (A) of 48559

section 4751.06 of the Revised Code, shall immediately upon 48560  
issuance thereof be registered with the board of examiners of 48561  
nursing home administrators and be issued a certificate of 48562  
registration. Such individual shall annually apply to the board 48563  
for a new certificate of registration on forms provided for such 48564  
purpose prior to the expiration of the certificate of registration 48565  
and shall at the same time submit satisfactory evidence to the 48566  
board of having attended such continuing education programs or 48567  
courses of study as may be prescribed in rules adopted by the 48568  
board. 48569

(B) Upon making an application for a new certificate of 48570  
registration such individual shall pay the annual registration fee 48571  
of two hundred ~~ten~~ fifty dollars. 48572

(C) Upon receipt of such application for registration and the 48573  
registration fee required by divisions (A) and (B) of this 48574  
section, the board shall issue a certificate of registration to 48575  
such nursing home administrator. 48576

(D) The license of a nursing home administrator who fails to 48577  
comply with this section shall automatically lapse. 48578

(E) A nursing home administrator who has been licensed and 48579  
registered in this state who determines to temporarily abandon the 48580  
practice of nursing home administration shall notify the board in 48581  
writing immediately; provided, that such individual may thereafter 48582  
register to resume the practice of nursing home administration 48583  
within the state upon complying with the requirements of this 48584  
section regarding annual registration. 48585

(F) Only an individual who has qualified as a licensed and 48586  
registered nursing home administrator under Chapter 4751. of the 48587  
Revised Code and the rules adopted thereunder, and who holds a 48588  
valid current registration certificate pursuant to this section, 48589  
may use the title "nursing home administrator," or the 48590

abbreviation "N.H.A." after the individual's name. No other person 48591  
shall use such title or such abbreviation or any other words, 48592  
letters, sign, card, or device tending to indicate or to imply 48593  
that the person is a licensed and registered nursing home 48594  
administrator. 48595

(G) Every person holding a valid license entitling the person 48596  
to practice nursing home administration in this state shall 48597  
display said license in the nursing home which is the person's 48598  
principal place of employment, and while engaged in the practice 48599  
of nursing home administration shall have at hand the current 48600  
registration certificate. 48601

(H) Every person holding a valid temporary license shall have 48602  
such license at hand while engaged in the practice of nursing home 48603  
administration. 48604

**Sec. 4755.03.** There is hereby created in the department of 48605  
health the Ohio occupational therapy, physical therapy, and 48606  
athletic trainers board ~~consisting~~. The board shall consist of 48607  
sixteen residents of this state, who shall be appointed by the 48608  
governor with the advice and consent of the senate. The board 48609  
shall be composed of a physical therapy section, an occupational 48610  
therapy section, and an athletic trainers section. 48611

Five members of the board shall be physical therapists who 48612  
are licensed to practice physical therapy and who have been 48613  
engaged in or actively associated with the practice of physical 48614  
therapy in this state for at least five years immediately 48615  
preceding appointment. Such members of the board shall sit on the 48616  
physical therapy section. The physical therapy section also shall 48617  
consist of four additional members, appointed by the governor with 48618  
the advice and consent of the senate, who satisfy the same 48619  
qualifications as the members of the board sitting on the physical 48620  
therapy section, but who are not members of the board. Such 48621

additional members of the physical therapy section are vested with 48622  
only such powers and shall perform only such duties as relate to 48623  
the affairs of that section, shall serve for the same terms as do 48624  
members of the board sitting on the physical therapy section, and 48625  
shall subscribe to and file with the secretary of state the 48626  
constitutional oath of office. 48627

Five members of the board shall be occupational therapists 48628  
who have been engaged in or actively associated with the practice 48629  
of occupational therapy in this state for at least five years 48630  
immediately preceding appointment. Such members of the board shall 48631  
sit on the occupational therapy section. 48632

Four members of the board shall be athletic trainers who have 48633  
been engaged in the practice of athletic training in Ohio for at 48634  
least five years immediately preceding appointment. One member of 48635  
the board shall be a physician licensed to practice medicine and 48636  
surgery in this state. Such members of the board shall sit on the 48637  
athletic trainers section. 48638

One member of the board shall represent the public and shall 48639  
be at least sixty years of age. This member shall sit on the 48640  
board. 48641

Terms of office are for three years, each term commencing on 48642  
the twenty-eighth day of August and ending on the twenty-seventh 48643  
day of August. Each member shall serve subsequent to the 48644  
expiration of ~~his~~ the member's term until ~~his~~ the member's 48645  
successor is appointed and qualifies, or until a period of sixty 48646  
days has elapsed, whichever occurs first. Each member, before 48647  
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 48648  
to and file with the secretary of state the constitutional oath of 48649  
office. All vacancies shall be filled in the manner prescribed for 48650  
the regular appointments to the board and are limited to the 48651  
unexpired terms. 48652

Annually, upon the qualification of the member or members 48653  
appointed in that year, the board shall organize by selecting from 48654  
its members a president and secretary. Each section of the board 48655  
shall organize by selecting from its members a ~~chairman~~ 48656  
chairperson and secretary. 48657

The majority of the members of the board constitutes a quorum 48658  
to transact and vote on the business of the board. A majority of 48659  
the members of each section constitutes a quorum to transact and 48660  
vote on the affairs of that section. 48661

Each member of the board and each additional member of the 48662  
physical therapy section shall receive an amount fixed pursuant to 48663  
division (J) of section 124.15 of the Revised Code for each day 48664  
employed in the discharge of ~~his~~ official duties. In addition, 48665  
each member of the board and each additional member of the 48666  
physical therapy section shall receive ~~his~~ the member's actual and 48667  
necessary expenses incurred in the performance of ~~his~~ official 48668  
duties. 48669

The board of trustees of the Ohio occupational therapy 48670  
association, inc., may recommend, after any term expires or 48671  
vacancy occurs in an occupational therapy position, at least three 48672  
persons to fill each such position or vacancy on the board, and 48673  
the governor may make ~~his~~ the appointment from the persons so 48674  
recommended. The executive board of the Ohio chapter, inc., of the 48675  
American physical therapy association may recommend, after any 48676  
term expires or vacancy occurs in a physical therapy position, at 48677  
least three persons to fill each such vacancy on the board, and 48678  
the governor may make ~~his~~ appointments from the persons so 48679  
recommended. The Ohio athletic trainers association shall 48680  
recommend to the governor at least three persons for each of the 48681  
initial appointments to an athletic trainer's position. The Ohio 48682  
athletic trainers association shall also recommend to the governor 48683  
at least three persons when any term expires or any vacancy occurs 48684

in such a position. The governor may select one of the 48685  
association's recommendations in making such an appointment. 48686

The board shall meet as a whole to determine all 48687  
administrative, personnel, and budgetary matters. The executive 48688  
director of the board appointed by the board shall not be a 48689  
physical therapist, an occupational therapist, or an athletic 48690  
trainer who has been licensed to practice physical therapy, 48691  
occupational therapy, or as an athletic trainer in this state 48692  
within three years immediately preceding appointment. The 48693  
executive director shall serve at the pleasure of the board. 48694

The occupational therapy section of the board shall have the 48695  
full authority to act on behalf of the board on all matters 48696  
concerning the practice of occupational therapy and, in 48697  
particular, the examination, licensure, and suspension or 48698  
revocation of licensure of applicants, occupational therapists, 48699  
and occupational therapy assistants. The physical therapy section 48700  
of the board shall have the full authority to act on behalf of the 48701  
board on all matters concerning the practice of physical therapy 48702  
and, in particular, the examination, licensure, and suspension or 48703  
revocation of licensure of applicants, physical therapists, and 48704  
physical therapist assistants. The athletic trainers section of 48705  
the board shall have the full authority to act on behalf of the 48706  
board on all matters concerning the practice of athletic training 48707  
and, in particular, the examination, licensure, and suspension or 48708  
revocation of licensure of applicants and athletic trainers. All 48709  
actions taken by any section of the board under this paragraph 48710  
shall be in accordance with Chapter 119. of the Revised Code. 48711

Sec. 4755.031. Notwithstanding any other section of this 48712  
chapter, any rules required to be adopted by any section of the 48713  
Ohio occupational therapy, physical therapy, and athletic trainers 48714  
board shall be adopted on behalf of that section of the board by 48715

the director of health. When adopting rules for a section of the 48716  
board, the director shall, to the extent the director considers 48717  
appropriate, consult with or accept comments from that section. 48718  
Any rules adopted prior to the effective date of this section 48719  
shall continue in force as rules of the department of health until 48720  
amended or rescinded by the director. 48721

**Sec. 4759.08.** (A) The Ohio board of dietetics shall charge 48722  
and collect fees as described in this section for issuing the 48723  
following: 48724

(1) An application for an initial dietitian license, or an 48725  
application for ~~reinstatement~~ reactivation of an inactive license, 48726  
one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a 48727  
lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ 48728  
eighty dollars; 48729

(2) License renewal, ~~eighty~~ ninety-five dollars; 48730

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ 48731  
sixty-five dollars; 48732

(4) A duplicate license or permit, twenty dollars; 48733

(5) For processing a late application for renewal of any 48734  
license or permit, an additional fee equal to fifty per cent of 48735  
the fee for the renewal. 48736

(B) The board shall not require a licensed dietitian holding 48737  
an inactive license to pay the renewal fee. 48738

(C) Subject to the approval of the controlling board, the 48739  
Ohio board of dietetics may establish fees in excess of the 48740  
amounts provided in division (A) of this section, provided that 48741  
the fees do not exceed the amounts by greater than fifty per cent. 48742

(D) The board may adopt rules pursuant to Chapter 119. of the 48743  
Revised Code to waive all or part of the fee for an initial 48744  
license if the license is issued within one hundred days of the 48745

date of expiration of the license. 48746

(E) All receipts of the board shall be deposited in the state 48747  
treasury to the credit of the occupational licensing and 48748  
regulatory fund. All vouchers of the board shall be approved by 48749  
the chairperson or secretary of the board, or both, as authorized 48750  
by the board. 48751

**Sec. 4771.22.** The Ohio athletic commission shall deposit all 48752  
money it receives under this chapter to the credit of the ~~athlete~~ 48753  
~~agents registration~~ occupational licensing and regulatory fund, 48754  
~~which is hereby created in the state treasury. The commission~~ 48755  
~~shall use the fund to administer and enforce this chapter under~~ 48756  
section 4743.05 of the Revised Code. 48757

**Sec. 4779.08.** (A) The state board of orthotics, prosthetics, 48758  
and pedorthics shall adopt rules in accordance with Chapter 119. 48759  
of the Revised Code to carry out the purposes of this chapter, 48760  
including rules prescribing all of the following: 48761

(1) The form and manner of filing of applications to be 48762  
admitted to examinations and for licensure and license renewal; 48763

(2) Standards and procedures for formulating, evaluating, 48764  
approving, and administering licensing examinations or recognizing 48765  
other entities that conduct examinations; 48766

(3) The form, scoring, and scheduling of licensing 48767  
examinations; 48768

(4) Fees for examinations and applications for licensure and 48769  
license renewal; 48770

(5) Fees for approval of continuing education courses; 48771

(6) Procedures for issuance, renewal, suspension, and 48772  
revocation of licenses and the conduct of disciplinary hearings; 48773

(7) Standards of ethical and professional conduct in the 48774

practice of orthotics, prosthetics, and pedorthics;	48775
(8) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;	48776
(9) Fines for violations of this chapter;	48777
(10) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;	48778
(11) Standards for continuing education programs required for license renewal;	48779
(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	48780
(B) The board may adopt any other rules necessary for the administration of this chapter.	48781
(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall <del>from the effective date of this section until December 31, 2004,</del> deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	48782
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(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. 48804  
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(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. 48807  
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(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. 48810  
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(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. 48813  
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(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. 48816  
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**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: 48821  
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(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; 48824  
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(2) Is eighteen years of age or older; 48827

(3) Is of good moral character; 48828

(4) One of the following applies: 48829

(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. 48830  
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(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 48893  
this division and any orders issued under sections 4905.90 to 48894  
4905.96 of the Revised Code constitute the pipe-line safety code. 48895  
The commission shall administer and enforce that code. 48896

(2) Make certifications and reports to the United States 48897  
department of transportation as required under the Natural Gas 48898  
Pipeline Safety Act. 48899

(B) The commission may: 48900

(1) Investigate any service, act, practice, policy, or 48901  
omission by any operator to determine its compliance with sections 48902  
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 48903  
code; 48904

(2) Investigate any intrastate pipe-line transportation 48905  
facility to determine if it is hazardous to life or property, as 48906  
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 48907  
(3); 48908

(3) Investigate the existence or report of any safety-related 48909  
condition that involves any intrastate pipe-line transportation 48910  
facility; 48911

(4) Enter into and perform contracts or agreements with the 48912  
United States department of transportation to inspect interstate 48913  
transmission facilities pursuant to the Natural Gas Pipeline 48914  
Safety Act; 48915

(5) Accept grants-in-aid, ~~fun~~ cash, and reimbursements 48916  
provided for or made available to this state by the federal 48917  
government to carry out the Natural Gas Pipeline Safety Act or to 48918  
enforce sections 4905.90 to 4905.96 of the Revised Code and the 48919  
pipe-line safety code. All such grants-in-aid, cash, and 48920  
reimbursements shall be deposited to the credit of the gas 48921  
pipe-line safety fund, which is hereby created in the state 48922  
treasury, to be used by the commission for the purpose of carrying 48923

out this section. 48924

(C) The commission's regulation of gathering lines shall 48925  
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 48926  
192 and 199, as amended, and the commission's annual certification 48927  
agreements with the United States department of transportation, 48928  
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 48929  
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 48930  
apply to gathering lines. The procedural rules under chapter 48931  
4901:1-16 of the Ohio Administrative Code shall also apply to 48932  
operators of gathering lines. 48933

**Sec. 4919.79.** (A) The public utilities commission may adopt 48934  
safety rules applicable to the highway transportation and offering 48935  
for transportation of hazardous materials in interstate commerce, 48936  
which highway transportation takes place into or through this 48937  
state. 48938

(B) The commission may adopt safety rules applicable to the 48939  
highway transportation of persons or property in interstate 48940  
commerce, which transportation takes place into or through this 48941  
state. 48942

(C) Rules adopted under divisions (A) and (B) of this section 48943  
shall be consistent with, and equivalent in scope, coverage, and 48944  
content to, the "Hazardous Materials Transportation Act," 88 Stat. 48945  
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 48946  
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 48947  
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 48948  
respectively. No person shall violate a rule adopted under 48949  
division (A) or (B) of this section or any order of the commission 48950  
issued to secure compliance with any such rule. 48951

(D) The commission shall cooperate with, and permit the use 48952  
of, the services, records, and facilities of the commission as 48953  
fully as practicable by appropriate officers of the interstate 48954

commerce commission, the United States department of 48955  
transportation, and other federal agencies or commissions and 48956  
appropriate commissions of other states in the enforcement and 48957  
administration of state and federal laws relating to highway 48958  
transportation by motor vehicles. The commission may enter into 48959  
cooperative agreements with the interstate commerce commission, 48960  
the United States department of transportation, and any other 48961  
federal agency or commission to enforce the economic and safety 48962  
laws and rules of this state and of the United States concerning 48963  
highway transportation by motor vehicles. All grants-in-aid, cash, 48964  
and reimbursements received by the commission pursuant to those 48965  
cooperative agreements shall be deposited to the credit of the 48966  
motor carrier safety fund, which is hereby created in the state 48967  
treasury, to be used by the commission for the purpose of carrying 48968  
out this section. 48969

(E) To achieve the purposes of this section, the commission 48970  
may, through its inspectors or other authorized employees, inspect 48971  
any vehicles of carriers of persons or property in interstate 48972  
commerce subject to the safety rules prescribed by this section 48973  
and may enter upon the premises and vehicles of such carriers to 48974  
examine any of the carriers' records or documents that relate to 48975  
the safety of operation of such carriers. In order to assist the 48976  
commission in the performance of its duties under this section, 48977  
authorized employees of the commercial motor vehicle safety 48978  
enforcement unit, division of state highway patrol, of the 48979  
department of public safety may enter in or upon, for purposes of 48980  
inspection, any vehicle of any such carrier. 48981

In order to inspect motor vehicles owned or operated by 48982  
private motor carriers of persons, authorized employees of the 48983  
commercial motor vehicle safety enforcement unit, division of 48984  
state highway patrol, of the department of public safety may enter 48985  
in or upon the premises of any private carrier of persons in 48986

interstate commerce, subject to the safety rules prescribed by 48987  
this section. 48988

**Sec. 4928.62.** (A) Beginning on the starting date of 48989  
competitive retail electric service, there is hereby created the 48990  
energy efficiency revolving loan program, which shall be 48991  
administered by the director of development. Under the program, 48992  
the director may authorize the use of moneys in the energy 48993  
efficiency revolving loan fund for financial assistance for 48994  
projects in this state. To the extent feasible given approved 48995  
applications for assistance, the assistance shall be distributed 48996  
among the certified territories of electric distribution utilities 48997  
and participating electric cooperatives, and among the service 48998  
areas of participating municipal electric utilities, in amounts 48999  
proportionate to the remittances of each utility and cooperative 49000  
under divisions (B)(1) and (3) of section 4928.61 of the Revised 49001  
Code. The assistance ~~shall~~ may be ~~made or~~ provided ~~through~~ 49002  
~~approved lending institutions~~ by the director of development in 49003  
the form of direct loans, or grants, or through lending 49004  
institutions in the form of loan participation agreements at below 49005  
market rates, ~~loan guarantees for such loans, and or~~ linked 49006  
~~deposits for such loans~~. The total of all grants provided in any 49007  
one fiscal year shall not exceed ten per cent of the revenues paid 49008  
into the energy efficiency revolving loan fund during the previous 49009  
fiscal year. 49010

The director shall not authorize financial assistance under 49011  
the program unless the director first determines all of the 49012  
following: 49013

(1) The project will include an investment in products, 49014  
technologies, or services, including energy efficiency or 49015  
renewable energy for low-income housing, for residential, ~~small~~ 49016  
commercial and ~~small~~ industrial business, local government, 49017

educational institution, nonprofit entity, or agricultural 49018  
customers of an electric distribution utility in this state or a 49019  
participating municipal electric utility or electric cooperative 49020  
in this state. 49021

(2) The project will improve energy efficiency, provide for 49022  
the use of renewable energy, or monitor energy usage in a 49023  
cost-efficient manner by using both the most appropriate national, 49024  
federal, or other standards for products as determined by the 49025  
director, and the best practices for use of technology, products, 49026  
or services in the context of the total facility or building. 49027

(3) The project will benefit the economic and environmental 49028  
welfare of the citizens of this state. 49029

(4) The receipt of financial assistance is a major factor in 49030  
the applicant's decision to proceed with or invest in the project. 49031

(B) In carrying out sections 4928.61 to 4928.63 of the 49032  
Revised Code, the director may do all of the following for the 49033  
purpose of the energy efficiency revolving loan program: 49034

(1) Acquire in the name of the director any property of any 49035  
kind or character in accordance with this section, by purchase, 49036  
purchase at foreclosure, or exchange, on such terms and in such 49037  
manner as the director considers proper; 49038

(2) Make and enter into all contracts and agreements 49039  
necessary or incidental to the performance of the director's 49040  
duties and the exercise of the director's powers under those 49041  
sections; 49042

(3) Employ or enter into contracts with financial 49043  
consultants, marketing consultants, consulting engineers, 49044  
architects, managers, construction experts, attorneys, technical 49045  
monitors, energy evaluators, or other employees or agents as the 49046  
director considers necessary, and ~~shall~~ fix their compensation; 49047

(4) Adopt rules prescribing the application procedures for 49048  
financial assistance under the program; the terms and conditions 49049  
of any loans, loan guarantees, grants, linked deposits, and 49050  
contracts; criteria pertaining to the eligibility of participating 49051  
lending institutions; and any other matters necessary for the 49052  
implementation of the program; 49053

(5) Do all things necessary and appropriate for the operation 49054  
of the program. 49055

(C) Financial statements, financial data, and trade secrets 49056  
submitted to or received by the director from an applicant or 49057  
recipient of financial assistance under sections 4928.61 to 49058  
4928.63 of the Revised Code, or any information taken from those 49059  
statements, data, or trade secrets for any purpose, are not public 49060  
records for the purpose of section 149.43 of the Revised Code. 49061

**Sec. 4928.63.** The director of development and the public 49062  
benefits advisory board have the powers and duties provided in 49063  
sections 4928.61 and 4928.62 of the Revised Code, in order to 49064  
promote the welfare of the people of this state, to stabilize the 49065  
economy, to assist in the improvement and development within this 49066  
state of not-for-profit entity, industrial, commercial, 49067  
distribution, residential, and research buildings and activities 49068  
required for the people of this state, to improve the economic 49069  
welfare of the people of this state, and also to assist in the 49070  
improvement of air, water, or thermal pollution control facilities 49071  
and solid waste disposal facilities. It is hereby determined that 49072  
the accomplishment of those purposes is essential so that the 49073  
people of this state may maintain their present high standards in 49074  
comparison with the people of other states and so that 49075  
opportunities for improving the economic welfare of the people of 49076  
this state, for improving the housing of residents of this state, 49077  
and for favorable markets for the products of this state's natural 49078

resources, agriculture, and manufacturing shall be improved; and 49079  
that it is necessary for this state to establish the program 49080  
authorized pursuant to sections 4928.61 and 4928.62 of the Revised 49081  
Code, ~~to establish the energy efficiency revolving loan program~~ 49082  
~~and program fund and the energy efficiency revolving loan program~~ 49083  
~~advisory board, and to vest the director and the board with the~~ 49084  
~~powers and duties provided in sections 4928.61 and 4928.62 of the~~ 49085  
Revised Code. 49086

**Sec. 4931.45.** (A) A final plan may be amended to expand the 49087  
territory included in the countywide 9-1-1 system, to upgrade any 49088  
part or all of a system from basic 9-1-1 to enhanced 9-1-1 49089  
service, to adjust the territory served by a public safety 49090  
answering point, to represcribe the funding of public safety 49091  
answering points as between the alternatives set forth in division 49092  
(B)(5) of section 4931.43 of the Revised Code, or to make any 49093  
other necessary adjustments to the plan only by convening a new 49094  
9-1-1 planning committee, and adopting an amended final plan. The 49095  
convening of a new 9-1-1 planning committee and the proposal and 49096  
adoption of an amended final plan shall be made in the same manner 49097  
required for the convening of an initial committee and adoption of 49098  
an original proposed and final plan under sections 4931.42 to 49099  
4931.44 of the Revised Code. Adoption of any resolution under 49100  
section 4931.51 of the Revised Code pursuant to a final plan that 49101  
both has been adopted and provides for funding through charges 49102  
imposed under that section is not an amendment of a final plan for 49103  
the purpose of this division. 49104

(B) When a final plan is amended to expand the territory that 49105  
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 49106  
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 49107  
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 49108  
telephone company's recovery of the nonrecurring and recurring 49109  
rates and charges for the telephone network portion of the system. 49110

**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 49142  
4905.30 of the Revised Code, on completion of the installation of 49143  
the network in accordance with the terms, conditions, 49144  
requirements, and specifications of the final plan or pursuant to 49145  
section 4931.48 of the Revised Code shall be recovered by the 49146  
company through the credit authorized by section ~~5727.39~~ 5733.55 49147  
of the Revised Code. 49148

(2) The credit shall not be allowed for upgrading of a system 49149  
from basic to enhanced 9-1-1 service when: 49150

(a) The telephone company received the credit for the 49151  
telephone network portion of the basic 9-1-1 system now proposed 49152  
to be upgraded; and 49153

(b) At the time the final plan or agreement pursuant to 49154  
section 4931.48 of the Revised Code calling for the basic 9-1-1 49155  
system was agreed to, the telephone company was capable of 49156  
reasonably meeting the technical and economic requirements of 49157  
providing the telephone network portion of an enhanced 9-1-1 49158  
system within the territory proposed to be upgraded, as determined 49159  
by the public utilities commission under division (A) or (H) of 49160  
section 4931.41 or division (C) of section 4931.48 of the Revised 49161  
Code. 49162

(3) When the credit is not allowed under division (C)(2) of 49163  
this section, the total nonrecurring charges for the telephone 49164  
network used in providing 9-1-1 service, as set forth in the 49165  
schedule filed by a telephone company in accordance with section 49166  
4905.30 of the Revised Code, on completion of the installation of 49167  
the network in accordance with the terms, conditions, 49168  
requirements, and specifications of the final plan or pursuant to 49169  
section 4931.48 of the Revised Code, shall be paid by the 49170  
municipal corporations and townships with any territory in the 49171  
area in which such upgrade from basic to enhanced 9-1-1 service is 49172  
made. 49173

(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 49205  
townships, may enter into an agreement with a telephone company 49206  
serving ~~customers~~ customers within the boundaries of the municipal 49207  
corporation or contiguous municipal corporations and townships, to 49208  
provide for the telephone network portion of a 9-1-1 system. 49209

(C) Whenever a telephone company and one or more municipal 49210  
corporations and townships enter into an agreement under this 49211  
section to provide for the telephone network portion of a basic 49212  
9-1-1 system, the telephone company shall so notify the public 49213  
utilities commission, which shall determine whether the telephone 49214  
company is capable of reasonably meeting the technical and 49215  
economic requirements of providing the telephone network for an 49216  
enhanced system within the territory served by the company and 49217  
covered by the agreement. The determination shall be made solely 49218  
for the purposes of division (C)(2) of section 4931.47 of the 49219  
Revised Code. 49220

(D) Within three years from the date of entering into an 49221  
agreement under division (A) or (B) of this section, the telephone 49222  
company shall have installed the telephone network portion of the 49223  
9-1-1 system according to the terms, conditions, requirements, and 49224  
specifications set forth in the agreement. 49225

(E) The telephone company shall recover the cost of 49226  
installing the telephone network system pursuant to agreements 49227  
made under this section as provided in ~~sections~~ section 4931.47 49228  
~~and 5727.39~~ of the Revised Code, as authorized under section 49229  
5733.55 of the Revised Code. 49230

**Sec. 4973.17.** (A) Upon the application of any bank, building 49231  
and loan association, or association of banks or building and loan 49232  
associations in this state, the ~~governor~~ secretary of state may 49233  
appoint and commission any persons that the bank, building and 49234  
loan association, or association of banks or building and loan 49235

associations designates, or as many of those persons as the 49236  
~~governor~~ secretary of state considers proper, to act as police 49237  
officers for and on the premises of that bank, building and loan 49238  
association, or association of banks or building and loan 49239  
associations, or elsewhere, when directly in the discharge of 49240  
their duties. Police officers so appointed shall be citizens of 49241  
this state and of good character. They shall hold office for three 49242  
years, unless, for good cause shown, their commission is revoked 49243  
by the ~~governor~~ secretary of state, or by the bank, building and 49244  
loan association, or association of banks or building and loan 49245  
associations, as provided by law. 49246

(B) Upon the application of a company owning or using a 49247  
railroad in this state and subject to section 4973.171 of the 49248  
Revised Code, the ~~governor~~ secretary of state may appoint and 49249  
commission any persons that the railroad company designates, or as 49250  
many of those persons as the ~~governor~~ secretary of state considers 49251  
proper, to act as police officers for and on the premises of the 49252  
railroad company, its affiliates or subsidiaries, or elsewhere, 49253  
when directly in the discharge of their duties. Police officers so 49254  
appointed, within the time set by the Ohio peace officer training 49255  
commission, shall successfully complete a commission approved 49256  
training program and be certified by the commission. They shall 49257  
hold office for three years, unless, for good cause shown, their 49258  
commission is revoked by the ~~governor~~ secretary of state, or 49259  
railroad company, as provided by law. 49260

Any person holding a similar commission in another state may 49261  
be commissioned and may hold office in this state without 49262  
completing the approved training program required by this division 49263  
provided that ~~that~~ the person has completed a substantially 49264  
equivalent training program in the other state. The Ohio peace 49265  
officer training commission shall determine whether a training 49266  
program in another state meets the requirements of this division. 49267

(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. 49300

(b) Subsequent to the grant of approval described in division 49301  
(D)(1)(a) of this section, the hospital has entered into a written 49302  
agreement with the chief of police of the municipal corporation in 49303  
which the hospital is located, or, if the hospital is located in 49304  
the unincorporated area of a county, with the sheriff of that 49305  
county, that sets forth the standards and criteria to govern the 49306  
interaction and cooperation between persons appointed as police 49307  
officers for the hospital under this division and law enforcement 49308  
officers serving the agency represented by the chief of police or 49309  
sheriff who signed the agreement in areas of their concurrent 49310  
jurisdiction. The written agreement shall be signed by the 49311  
appointing authority of the hospital and by the chief of police or 49312  
sheriff. The standards and criteria may include, but are not 49313  
limited to, provisions governing the reporting of offenses 49314  
discovered by hospital police officers to the agency represented 49315  
by the chief of police or sheriff, provisions governing 49316  
investigatory responsibilities relative to offenses committed on 49317  
hospital property, and provisions governing the processing and 49318  
confinement of persons arrested for offenses committed on hospital 49319  
property. The agreement required by this division is intended to 49320  
apply in the aggregate to all persons appointed as police officers 49321  
for the hospital under this division; a separate agreement is not 49322  
required for each appointee on an individual basis. 49323

(c) The person has successfully completed a training program 49324  
approved by the Ohio peace officer training commission and has 49325  
been certified by the commission. A person appointed as a police 49326  
officer under this division may attend a training program approved 49327  
by the commission and be certified by the commission regardless of 49328  
whether the appropriate chief of police or sheriff has granted the 49329  
approval described in division (D)(1)(a) of this section and 49330  
regardless of whether the hospital has entered into the written 49331

agreement described in division (D)(1)(b) of this section with the 49332  
appropriate chief of police or sheriff. 49333

(2)(a) A person who is appointed as a police officer under 49334  
division (D)(1) of this section is entitled, upon the grant of 49335  
approval described in division (D)(1)(a) of this section and upon 49336  
~~that~~ the person's and the hospital's compliance with the 49337  
requirements of divisions (D)(1)(b) and (c) of this section, to 49338  
act as a police officer for the hospital on the premises of the 49339  
hospital and of its affiliates and subsidiaries that are within 49340  
the territory of the municipal corporation served by the chief of 49341  
police or the unincorporated area of the county served by the 49342  
sheriff who signed the written agreement described in division 49343  
(D)(1)(b) of this section, whichever is applicable, and anywhere 49344  
else within the territory of that municipal corporation or within 49345  
the unincorporated area of that county. The authority to act as a 49346  
police officer as described in this division is granted only if 49347  
the person, when engaging in that activity, is directly in the 49348  
discharge of ~~that~~ the person's duties as a police officer for the 49349  
hospital. The authority to act as a police officer as described in 49350  
this division shall be exercised in accordance with the standards 49351  
and criteria set forth in the written agreement described in 49352  
division (D)(1)(b) of this section. 49353

(b) Additionally, a person appointed as a police officer 49354  
under division (D)(1) of this section is entitled, upon the grant 49355  
of approval described in division (D)(1)(a) of this section and 49356  
upon ~~that~~ the person's and the hospital's compliance with the 49357  
requirements of divisions (D)(1)(b) and (c) of this section, to 49358  
act as a police officer elsewhere, within the territory of a 49359  
municipal corporation or within the unincorporated area of a 49360  
county, if the chief of police of that municipal corporation or 49361  
the sheriff of that county, respectively, has granted approval for 49362  
that activity to the hospital, police department, or security 49363

department served by the person as a police officer and if the 49364  
person, when engaging in that activity, is directly in the 49365  
discharge of ~~that~~ the person's duties as a police officer for the 49366  
hospital. The approval described in this division may be general 49367  
in nature or may be limited in scope, duration, or applicability, 49368  
as determined by the chief of police or sheriff granting the 49369  
approval. 49370

(3) Police officers appointed under division (D)(1) of this 49371  
section shall hold office for three years, unless, for good cause 49372  
shown, their commission is revoked by the ~~governor~~ secretary of 49373  
state or by the hospital, as provided by law. As used in divisions 49374  
(D)(1) to (3) of this section, "public hospital agency" and 49375  
"nonprofit hospital agency" have the same ~~meaning~~ meanings as in 49376  
section 140.01 of the Revised Code. 49377

(E) A fee of ~~five~~ fifteen dollars for each commission applied 49378  
for under this section shall be paid at the time the application 49379  
is made, and this amount shall be returned if for any reason a 49380  
commission is not issued. 49381

**Sec. 4981.20.** (A) Any real or personal property, or both, of 49382  
the Ohio rail development commission that is acquired, 49383  
constructed, reconstructed, enlarged, improved, furnished, or 49384  
equipped, or any combination thereof, and leased or subleased 49385  
under authority of sections 4981.11 to 4981.26 of the Revised Code 49386  
shall be subject to ad valorem, sales, use, and franchise taxes 49387  
and to zoning, planning, and building regulations and fees, to the 49388  
same extent and in the same manner as if the lessee-user or 49389  
sublessee-user thereof, rather than the issuer, had acquired, 49390  
constructed, reconstructed, enlarged, improved, furnished, or 49391  
equipped, or any combination thereof, such real or personal 49392  
property, and title thereto was in the name of such lessee-user or 49393  
sublessee-user. 49394

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 49425  
a public or private institution of higher education. 49426

(2) "Federal financial participation" means the federal 49427  
government's share of expenditures made by an entity in 49428  
implementing a program administered by the department of job and 49429  
family services. 49430

(B) At the request of any public entity having authority to 49431  
implement a program administered by the department of job and 49432  
family services or any private entity under contract with a public 49433  
entity to implement a program administered by the department, the 49434  
department may seek to obtain federal financial participation for 49435  
costs incurred by the entity. Federal financial participation may 49436  
be sought from programs operated pursuant to Title IV-A, Title 49437  
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 49438  
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 49439  
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 49440  
regulation under which federal financial participation may be 49441  
available, except that federal financial participation may be 49442  
sought only for expenditures made with funds for which federal 49443  
financial participation is available under federal law. 49444

(C) All funds collected by the department of job and family 49445  
services pursuant to division (B) of this section shall be 49446  
distributed to the entities that incurred the costs, except for 49447  
any amounts retained by the department pursuant to division (D)(3) 49448  
of this section. 49449

(D) In distributing federal financial participation pursuant 49450  
to this section, the department may either enter into an agreement 49451  
with the entity that is to receive the funds or distribute the 49452  
funds in accordance with rules adopted under division (F) of this 49453  
section. If the department decides to enter into an agreement to 49454  
distribute the funds, the agreement may include terms that do any 49455  
of the following: 49456

- (1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program; 49457  
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- (2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures; 49459  
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- (3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity; 49465  
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- (4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section; 49468  
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- (5) Establish the length of the agreement, which may be for a fixed or a continuing period of time; 49471  
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- (6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement. 49473  
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- (E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services for the use of the funds to improve and expand the program. 49476  
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- (F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program 49481  
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administered by the department, as necessary to implement this 49487  
section. 49488

(G) Federal financial participation received pursuant to this 49489  
section shall not be included in any calculation made under 49490  
section 5101.16 or 5101.161 of the Revised Code. 49491

Sec. 5101.12. The department of job and family services shall 49492  
maximize its receipt of federal revenue. In fulfilling this duty, 49493  
the department may enter into contracts to maximize federal 49494  
revenue without the expenditure of state money. In selecting 49495  
entities with which to contract, the department shall engage in a 49496  
request for proposals process. The department may also enter into 49497  
contracts with public entities providing revenue maximization 49498  
services. 49499

Each year in January and July, the department shall submit a 49500  
report to the office of budget and management outlining the 49501  
department's success in maximizing federal revenue. The office of 49502  
budget and management shall establish procedures and requirements 49503  
for preparing and submitting the reports and shall compile data 49504  
concerning the amount of federal revenue received by the 49505  
department. The department shall submit a copy of each of its 49506  
reports to the speaker and minority leader of the house of 49507  
representatives, the president and minority leader of the senate, 49508  
and the legislative service commission. 49509

Sec. 5101.14. (A) As used in this section and section 49510  
5101.144 of the Revised Code, "children services" means services 49511  
provided to children pursuant to Chapter 5153. of the Revised 49512  
Code. 49513

(B) Within available funds, the department of job and family 49514  
services shall ~~make payments~~ distribute funds to the counties 49515  
within thirty days after the beginning of each calendar quarter 49516

for a part of ~~their~~ the counties' costs for children services ~~to~~ 49517  
~~children performed pursuant to Chapter 5153. of the Revised Code.~~ 49518

Funds provided to the county under this section shall be 49519  
deposited into the children services fund created pursuant to 49520  
section 5101.144 of the Revised Code. 49521

~~(B)(1) The funds distributed under this section shall be used 49522  
for the following:~~ 49523

~~(a) Home based services to children and families;~~ 49524

~~(b) Protective services to children;~~ 49525

~~(c) To find, develop, and approve adoptive homes;~~ 49526

~~(d) Short term, out of home care and treatment for children;~~ 49527

~~(e) Costs for the care of a child who resides with a 49528  
caretaker relative, other than the child's parent, and is in the 49529  
legal custody of a public children services agency pursuant to a 49530  
voluntary temporary custody agreement entered into under division 49531  
(A) of section 5103.15 of the Revised Code or in the legal custody 49532  
of a public children services agency or the caretaker relative 49533  
pursuant to an allegation or adjudication of abuse, neglect, or 49534  
dependency made under Chapter 2151. of the Revised Code;~~ 49535

~~(f) Other services a public children services agency 49536  
considers necessary to protect children from abuse, neglect, or 49537  
dependency.~~ 49538

~~(2) No funds distributed under this section shall be used for 49539  
the costs of maintaining a child in a children's home owned and 49540  
operated by the county.~~ 49541

(C) In each fiscal year, the amount of funds available for 49542  
distribution under this section shall be allocated to counties as 49543  
follows: 49544

(1) If the amount is less than the amount initially 49545  
appropriated for the immediately preceding fiscal year, each 49546

county shall receive an amount equal to the percentage of the 49547  
funding it received in the immediately preceding fiscal year, 49548  
exclusive of any releases from or additions to the allocation or 49549  
any sanctions imposed under this section; 49550

(2) If the amount is equal to the amount initially 49551  
appropriated for the immediately preceding fiscal year, each 49552  
county shall receive an amount equal to the amount it received in 49553  
the preceding fiscal year, exclusive of any releases from or 49554  
additions to the allocation or any sanctions imposed under this 49555  
section; 49556

(3) If the amount is greater than the amount initially 49557  
appropriated for the immediately preceding fiscal year, each 49558  
county shall receive the amount determined under division (C)(2) 49559  
of this section as a base allocation, plus a percentage of the 49560  
amount that exceeds the amount initially appropriated for the 49561  
immediately preceding fiscal year. The amount exceeding the amount 49562  
initially appropriated in the immediately preceding fiscal year 49563  
shall be allocated to the counties as follows: 49564

(a) Twelve per cent divided equally among all counties; 49565

(b) Forty-eight per cent in the ratio that the number of 49566  
residents of the county under the age of eighteen bears to the 49567  
total number of such persons residing in this state; 49568

(c) Forty per cent in the ratio that the number of residents 49569  
of the county with incomes under the federal poverty guideline 49570  
bears to the total number of such persons in this state. 49571

As used in division (C)(3)(c) of this section, "federal 49572  
poverty guideline" means the poverty guideline as defined by the 49573  
United States office of management and budget and revised by the 49574  
United States secretary of health and human services in accordance 49575  
with section 673 of the "Community Services Block Grant Act," 95 49576  
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 49577

~~(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.~~ 49578  
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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.~~ 49582  
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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.~~ 49586  
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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:~~ 49595  
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~~(a) An across the board reduction in the county budget as a whole;~~ 49600  
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~~(b) A reduced or failed levy specifically earmarked for children services;~~ 49602  
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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.~~ 49604  
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~~(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole~~ 49606  
49607

~~or partial waivers of the provisions of this division.~~ 49608

~~(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.~~ 49609  
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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.~~ 49615  
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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:~~ 49618  
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(1) Rules that are necessary for the allocation of funds  
under this section; 49622  
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(2) Rules prescribing reports on expenditures to be submitted 49624  
by the counties as necessary for the implementation of this 49625  
section. 49626

**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. 49627  
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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, 49630  
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and ~~private noncustodial agencies~~ government entities that provide 49638  
Title IV-E reimbursable placement services to children shall be 49639  
adopted in accordance with section 111.15 of the Revised Code, as 49640  
if they were internal management rules. Rules governing 49641  
requirements applicable to private child placing agencies and 49642  
private noncustodial agencies and rules establishing eligibility, 49643  
program participation, and other requirements concerning Title 49644  
IV-E shall be adopted in accordance with Chapter 119. of the 49645  
Revised Code. A public children services agency to which the 49646  
department distributes Title IV-E funds shall administer the funds 49647  
in accordance with those rules. 49648

~~(B)~~(C)(1) The county, on behalf of each child eligible for 49649  
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49650  
~~Security Act,"~~ shall make payments to cover the cost of providing 49651  
all of the following: 49652

(a) The child's food, clothing, shelter, daily supervision, 49653  
and school supplies; 49654

(b) The child's personal incidentals; 49655

(c) Reasonable travel to the child's home for visitation. 49656

(2) In addition to payments made under division ~~(B)~~(C)(1) of 49657  
this section, the county may, on behalf of each child eligible for 49658  
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49659  
~~Security Act,"~~ make payments to cover the cost of providing the 49660  
following: 49661

(a) Liability insurance with respect to the child; 49662

(b) If the county is participating in the demonstration 49663  
project established under division (A) of section 5101.142 of the 49664  
Revised Code, services provided under the project. 49665

(3) With respect to a child who is in a child-care 49666  
institution, including any type of group home designed for the 49667

care of children or any privately operated program consisting of 49668  
two or more certified foster homes operated by a common 49669  
administrative unit, the foster care maintenance payments made by 49670  
the county on behalf of the child shall include the reasonable 49671  
cost of the administration and operation of the institution, group 49672  
home, or program, as necessary to provide the items described in 49673  
divisions ~~(B)~~(C)(1) and (2) of this section. 49674

~~(C)~~(D) To the extent that either foster care maintenance 49675  
payments under division ~~(B)~~ (C) of this section or Title IV-E 49676  
adoption assistance payments for maintenance costs require the 49677  
expenditure of county funds, the board of county commissioners 49678  
shall report the nature and amount of each expenditure of county 49679  
funds to the department. 49680

~~(D)~~(E) The department shall distribute to public children 49681  
services agencies that incur and report such expenditures federal 49682  
financial participation received for administrative and training 49683  
costs incurred in the operation of foster care maintenance and 49684  
adoption assistance programs. The department may withhold not more 49685  
than three per cent of the federal financial participation 49686  
received. The funds withheld may be used only to fund the Ohio 49687  
child welfare training program established under section 5153.60 49688  
of the Revised Code and the university partnership program for 49689  
college and university students majoring in social work who have 49690  
committed to work for a public children services agency upon 49691  
graduation. The funds withheld shall be in addition to any 49692  
administration and training cost for which the department is 49693  
reimbursed through its own cost allocation plan. 49694

~~(E)~~(F) All federal financial participation funds received by 49695  
a county pursuant to this section shall be deposited into the 49696  
county's children services fund created pursuant to section 49697  
5101.144 of the Revised Code. 49698

~~(F)~~(G) The department shall periodically publish and 49699

distribute the maximum amounts that the department will reimburse 49700  
public children services agencies for making payments on behalf of 49701  
children eligible for foster care maintenance payments. 49702

~~(G)~~(H) The department, by and through its director, is hereby 49703  
authorized to develop, participate in the development of, 49704  
negotiate, and enter into one or more interstate compacts on 49705  
behalf of this state with agencies of any other states, for the 49706  
provision of medical assistance and other social services to 49707  
children in relation to whom all of the following apply: 49708

(1) They have special needs. 49709

(2) This state or another state that is a party to the 49710  
interstate compact is providing adoption assistance on their 49711  
behalf. 49712

(3) They move into this state from another state or move out 49713  
of this state to another state. 49714

**Sec. 5101.142.** (A) The department of job and family services 49715  
may apply to the United States secretary of health and human 49716  
services for a waiver of requirements established under Title IV-E 49717  
~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670~~ 49718  
~~(1980)~~, or regulations adopted thereunder, to conduct a 49719  
demonstration project expanding eligibility for and services 49720  
provided under Title IV-E. The department may enter into 49721  
agreements with the secretary necessary to implement the 49722  
demonstration project, including agreements establishing the terms 49723  
and conditions of the waiver authorizing the project. If a 49724  
demonstration project is to be established, the department shall 49725  
do all of the following: 49726

(1) Have the director of job and family services adopt rules 49727  
in accordance with Chapter 119. of the Revised Code governing the 49728  
project. The rules shall be consistent with the agreements the 49729

department enters into with the secretary. 49730

(2) Enter into agreements with public children services 49731  
agencies that the department selects for participation in the 49732  
project. The department shall not select an agency that objects to 49733  
participation or refuses to be bound by the terms and conditions 49734  
of the project. 49735

(3) Contract with persons or governmental agencies providing 49736  
services under the project; 49737

(4) Amend the state plan required by section 471 of the 49738  
"Social Security Act," 42 U.S.C.A. 671, as amended, as needed to 49739  
implement the project; 49740

(5) Conduct ongoing evaluations of the project; 49741

(6) Perform other administrative and operational activities 49742  
required by the agreement with the secretary. 49743

(B) The department may apply to the United States secretary 49744  
of health and human services for a waiver of the requirements 49745  
established under Title IV-B of the "Social Security Act of 1967," 49746  
81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder 49747  
and established under any other federal law or regulations that 49748  
affect the children services functions prescribed by Chapter 5153. 49749  
of the Revised Code, to conduct demonstration projects or 49750  
otherwise improve the effectiveness and efficiency of the children 49751  
services function. 49752

~~Sec. 5101.144. As used in this section, "children services" 49753  
means services provided to children pursuant to Chapter 5153. of 49754  
the Revised Code. 49755~~

Each county shall deposit all funds its public children 49756  
services agency receives from appropriations made by the board of 49757  
county commissioners or any other source for the purpose of 49758  
providing children services into a special fund in the county 49759

treasury known as the children services fund. A county shall use 49760  
money in the fund only for the purposes of meeting the expenses of 49761  
providing children services. 49762

**Sec. 5101.145.** (A) ~~For the purposes of this section, "Title 49763  
IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 49764  
42 U.S.C.A. 670 (1980).~~ 49765

~~(B)~~ In adopting rules under section 5101.141 of the Revised 49766  
Code regarding financial requirements applicable to public 49767  
children services agencies, private child placing agencies, ~~and~~ 49768  
private noncustodial agencies, and government entities that 49769  
provide Title IV-E reimbursable placement services to children, 49770  
the department of job and family services shall establish both of 49771  
the following: 49772

(1) A single form for the agencies or entities to report 49773  
costs reimbursable under Title IV-E and costs reimbursable under 49774  
medicaid; 49775

(2) Procedures to monitor cost reports submitted by the 49776  
agencies or entities. 49777

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 49778  
this section shall be implemented not later than October 1, 2003. 49779  
The procedures shall be used to do both of the following: 49780

(1) Determine which of the costs are reimbursable under Title 49781  
IV-E; 49782

(2) Ensure that costs reimbursable under medicaid are 49783  
excluded from determinations made under division ~~(C)~~(B)(1) of this 49784  
section. 49785

**Sec. 5101.146.** The department of job and family services 49786  
shall establish the following penalties, which shall be enforced 49787  
at the discretion of the department, for the failure of a public 49788

children services agency, private child placing agency, ~~or~~ private 49789  
noncustodial agency, or government entity that provides Title IV-E 49790  
reimbursable placement services to children to comply with 49791  
procedures the department establishes to ensure fiscal 49792  
accountability: 49793

(A) For initial failure, the department and the agency or 49794  
entity involved shall jointly develop and implement a corrective 49795  
action plan according to a specific schedule. If requested by the 49796  
agency or entity involved, the department shall provide technical 49797  
assistance to the agency or entity to ensure the fiscal 49798  
accountability procedures and goals of the plan are met. 49799

(B) For subsequent failures or failure to achieve the goals 49800  
of the plan described in division (A) of this section, ~~either one~~ 49801  
of the following: 49802

(1) For public children services agencies, the department may 49803  
take any action permitted under division ~~(B)(3)(C)(2)~~, (4), ~~or~~ 49804  
(5), or (6) of section 5101.24 of the Revised Code. 49805

(2) For private child placing agencies or private 49806  
noncustodial agencies, cancellation of any Title IV-E allowability 49807  
rates for the agency involved pursuant to section 5101.141 of the 49808  
Revised Code or revocation pursuant to Chapter 119. of the Revised 49809  
Code of that agency's certificate issued under section 5103.03 of 49810  
the Revised Code; 49811

(3) For government entities, other than public children 49812  
services agencies, that provide Title IV-E reimbursable placement 49813  
services to children, cancellation of any Title IV-E allowability 49814  
rates for the entity involved pursuant to section 5101.141 of the 49815  
Revised Code. 49816

Sec. 5101.1410. In addition to the remedies available under 49817  
sections 5101.146 and 5101.24 of the Revised Code, the department 49818

of job and family services may certify a claim to the attorney 49819  
general under section 131.02 of the Revised Code for the attorney 49820  
general to take action under that section against a public 49821  
children services agency, private child placing agency, private 49822  
noncustodial agency, or government entity that provides Title IV-E 49823  
reimbursable placement services to children if all of the 49824  
following are the case: 49825

(A) The agency or entity files a cost report with the 49826  
department pursuant to rules adopted under division (B) of section 49827  
5101.141 of the Revised Code. 49828

(B) The department receives and distributes federal Title 49829  
IV-E reimbursement funds based on the cost report. 49830

(C) The agency's or entity's misstatement, misclassification, 49831  
overstatement, understatement, or other inclusion or omission of 49832  
any cost included in the cost report causes the United States 49833  
department of health and human services to disallow all or part of 49834  
the federal Title IV-E reimbursement funds the department received 49835  
and distributed. 49836

(D) The agency's or entity's misstatement, misclassification, 49837  
overstatement, understatement, or other inclusion or omission of 49838  
any cost included in the cost report is not the result of 49839  
directives the department gave to the agency or entity. 49840

**Sec. 5101.16.** (A) As used in this section and sections 49841  
5101.161 and 5101.162 of the Revised Code: 49842

(1) "Disability financial assistance" means the financial and 49843  
medical assistance provided program established under Chapter 49844  
5115. of the Revised Code. 49845

(2) "Disability medical assistance" means the medical 49846  
assistance program established under Chapter 5115. of the Revised 49847  
Code. 49848

(3) "Food stamps" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

~~(3)~~(4) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

~~(4)~~(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

~~(5)~~(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

~~(6)~~(7) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) Disability medical assistance;

(g) County administration of disability financial assistance;

~~(g)~~(h) County administration of disability medical assistance;

(i) County administration of food stamps;

~~(h)~~(j) County administration of medicaid.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section

5101.161 of the Revised Code. Except as provided in division (C) 49877  
of this section, a county's share of public assistance 49878  
expenditures is the sum of all of the following for state fiscal 49879  
year 1998 and each state fiscal year thereafter: 49880

(1) The amount that is twenty-five per cent of the county's 49881  
total expenditures for disability financial assistance and 49882  
disability medical assistance and county administration of 49883  
~~disability assistance~~ those programs during the state fiscal year 49884  
ending in the previous calendar year that the department of job 49885  
and family services determines are allowable. 49886

(2) The amount that is ten per cent, or other percentage 49887  
determined under division (D) of this section, of the county's 49888  
total expenditures for county administration of food stamps and 49889  
medicaid during the state fiscal year ending in the previous 49890  
calendar year that the department determines are allowable, less 49891  
the amount of federal reimbursement credited to the county under 49892  
division (E) of this section for the state fiscal year ending in 49893  
the previous calendar year; 49894

~~(3)(a) Except as provided in division (B)(3)(b) of this~~ 49895  
~~section, A percentage of the actual amount, as determined by the~~ 49896  
~~department of job and family services from expenditure reports~~ 49897  
~~submitted to the United States department of health and human~~ 49898  
~~services, of the county share of program and administrative~~ 49899  
expenditures during federal fiscal year 1994 for assistance and 49900  
services, other than child day-care, provided under Titles IV-A 49901  
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 49902  
U.S.C. 301, as those titles existed prior to the enactment of the 49903  
"Personal Responsibility and Work Opportunity Reconciliation Act 49904  
of 1996," 110 Stat. 2105. The department of job and family 49905  
services shall determine the actual amount of the county share 49906  
from expenditure reports submitted to the United States department 49907  
of health and human services. The percentage shall be the 49908

percentage established in rules adopted under division (F) of this section. 49909  
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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.~~ 49911  
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49913

(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. 49914  
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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. 49924  
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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. 49927  
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(2) If the percentage of families in a county with an annual 49939

income of less than three thousand dollars is greater than the 49940  
percentage of such families in the state and division (D)(1) of 49941  
this section does not apply to the county, the percentage to be 49942  
used for the purpose of division (B)(2) of this section is the 49943  
product of ten multiplied by a fraction of which the numerator is 49944  
the percentage of families in the state with an annual income of 49945  
less than three thousand dollars a year and the denominator is the 49946  
percentage of such families in the county. The department of job 49947  
and family services shall compute the percentage of families with 49948  
an annual income of less than three thousand dollars for the state 49949  
and for each county by multiplying the most recent estimate of 49950  
such families published by the department of development, by a 49951  
fraction, the numerator of which is the estimate of average annual 49952  
personal income published by the bureau of economic analysis of 49953  
the United States department of commerce for the year on which the 49954  
census estimate is based and the denominator of which is the most 49955  
recent such estimate published by the bureau. 49956

(3) If the per capita tax duplicate of a county is less than 49957  
the per capita tax duplicate of the state as a whole and the 49958  
percentage of families in the county with an annual income of less 49959  
than three thousand dollars is greater than the percentage of such 49960  
families in the state, the percentage to be used for the purpose 49961  
of division (B)(2) of this section shall be determined as follows: 49962

(a) Multiply ten by the fraction determined under division 49963  
(D)(1) of this section; 49964

(b) Multiply the product determined under division (D)(3)(a) 49965  
of this section by the fraction determined under division (D)(2) 49966  
of this section. 49967

(4) The department of job and family services shall 49968  
determine, for each county, the percentage to be used for the 49969  
purpose of division (B)(2) of this section not later than the 49970  
first day of July of the year preceding the state fiscal year for 49971

which the percentage is used. 49972

(E) The department of job and family services shall credit to 49973  
a county the amount of federal reimbursement the department 49974  
receives from the United States departments of agriculture and 49975  
health and human services for the county's expenditures for 49976  
administration of food stamps and medicaid that the department 49977  
determines are allowable administrative expenditures. 49978

(F)(1) The director of job and family services shall adopt 49979  
rules in accordance with section 111.15 of the Revised Code to 49980  
establish all of the following: 49981

~~(1)(a)~~ The method the department is to use to change a 49982  
county's share of public assistance expenditures determined under 49983  
division (B) of this section as provided in division (C) of this 49984  
section; 49985

~~(2)(b)~~ The allocation methodology and formula the department 49986  
will use to determine the amount of funds to credit to a county 49987  
under this section; 49988

~~(3)(c)~~ The method the department will use to change the 49989  
payment of the county share of public assistance expenditures from 49990  
a calendar-year basis to a state fiscal year basis; 49991

~~(4)(d)~~ The percentage to be used for the purpose of division 49992  
(B)(3) of this section, which shall meet both of the following 49993  
requirements: 49994

(i) The percentage shall not be less than seventy-five per 49995  
cent nor more than eighty-two per cent; 49996

(ii) The percentage shall not exceed the percentage that the 49997  
state's qualified state expenditures is of the state's historic 49998  
state expenditures as those terms are defined in 42 U.S.C. 49999  
609(a)(7). 50000

(e) Other procedures and requirements necessary to implement 50001

this section. 50002

(2) The director of job and family services may amend the 50003  
rule adopted under division (F)(1)(d) of this section to modify 50004  
the percentage on determination that the amount the general 50005  
assembly appropriates for Title IV-A programs makes the 50006  
modification necessary. The rule shall be adopted and amended as 50007  
if an internal management rule and in consultation with the 50008  
director of budget and management. 50009

**Sec. 5101.162.** The Subject to available federal funds and 50010  
appropriations made by the general assembly, the department of job 50011  
and family services may, at its sole discretion, use available 50012  
federal funds to reimburse county expenditures for county 50013  
administration of food stamps or medicaid even though the county 50014  
expenditures meet or exceed the maximum allowable reimbursement 50015  
amount established by rules adopted under section 5101.161 of the 50016  
Revised Code if the board of county commissioners has ~~not~~ entered 50017  
into a ~~partnership~~ fiscal agreement with the director of job and 50018  
family services under section 5101.21 of the Revised Code. The 50019  
director may adopt internal management rules in accordance with 50020  
section 111.15 of the Revised Code to implement this section. 50021

**Sec. 5101.18.** (A) When the director of job and family 50022  
services adopts rules under section 5107.05 regarding income 50023  
requirements for the Ohio works first program and under section 50024  
~~5115.05~~ 5115.03 of the Revised Code regarding income and resource 50025  
requirements for the disability financial assistance program, the 50026  
director shall determine what payments shall be regarded or 50027  
disregarded. In making this determination, the director shall 50028  
consider: 50029

(1) The source of the payment; 50030

(2) The amount of the payment; 50031

(3) The purpose for which the payment was made;	50032
(4) Whether regarding the payment as income would be in the public interest;	50033 50034
(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.	50035 50036 50037 50038 50039 50040
(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.	50041 50042 50043 50044 50045 50046 50047
<b>Sec. 5101.181.</b> (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; <del>prevention</del> , <u>all of the following:</u>	50048 50049 50050
<u>(1) Prevention</u> retention, and contingency; <del>medicaid</del>	50051
<u>(2) Medicaid</u> ; <del>and disability</del>	50052
<u>(3) Disability financial</u> assistance, <del>general</del> ;	50053
<u>(4) Disability medical</u> assistance;	50054
<u>(5) General</u> assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	50055 50056
(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	50057 50058 50059 50060

social security number of each individual who receives public 50061  
assistance to the director of administrative services, the 50062  
administrator of the bureau of workers' compensation, and each of 50063  
the state's retirement boards. Within fourteen days after 50064  
receiving the name and social security number of an individual who 50065  
receives public assistance, the director of administrative 50066  
services, administrator, or board shall inform the auditor of 50067  
state as to whether such individual is receiving wages or 50068  
benefits, the amount of any wages or benefits being received, the 50069  
social security number, and the address of the individual. The 50070  
director of administrative services, administrator, boards, and 50071  
any agent or employee of those officials and boards shall comply 50072  
with the rules of the director of job and family services 50073  
restricting the disclosure of information regarding recipients of 50074  
public assistance. Any person who violates this provision shall 50075  
thereafter be disqualified from acting as an agent or employee or 50076  
in any other capacity under appointment or employment of any state 50077  
board, commission, or agency. 50078

(C) The auditor of state may enter into a reciprocal 50079  
agreement with the director of job and family services or 50080  
comparable officer of any other state for the exchange of names, 50081  
current or most recent addresses, or social security numbers of 50082  
persons receiving public assistance under Title IV-A or under 50083  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 50084  
U.S.C. 301, as amended. 50085

(D)(1) The auditor of state shall retain, for not less than 50086  
two years, at least one copy of all information received under 50087  
this section and sections 145.27, 742.41, 3307.20, 3309.22, 50088  
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 50089  
shall review the information to determine whether overpayments 50090  
were made to recipients of public assistance under Chapters 5107., 50091  
5108., 5111., and 5115. of the Revised Code. The auditor of state 50092

shall initiate action leading to prosecution, where warranted, of 50093  
recipients who received overpayments by forwarding the name of 50094  
each recipient who received overpayment, together with other 50095  
pertinent information, to the director of job and family services 50096  
and the attorney general, to the district director of job and 50097  
family services of the district through which public assistance 50098  
was received, and to the county director of job and family 50099  
services and county prosecutor of the county through which public 50100  
assistance was received. 50101

(2) The auditor of state and the attorney general or their 50102  
designees may examine any records, whether in computer or printed 50103  
format, in the possession of the director of job and family 50104  
services or any county director of job and family services. They 50105  
shall provide safeguards which restrict access to such records to 50106  
purposes directly connected with an audit or investigation, 50107  
prosecution, or criminal or civil proceeding conducted in 50108  
connection with the administration of the programs and shall 50109  
comply with the rules of the director of job and family services 50110  
restricting the disclosure of information regarding recipients of 50111  
public assistance. Any person who violates this provision shall 50112  
thereafter be disqualified from acting as an agent or employee or 50113  
in any other capacity under appointment or employment of any state 50114  
board, commission, or agency. 50115

(3) Costs incurred by the auditor of state in carrying out 50116  
the auditor of state's duties under this division shall be borne 50117  
by the auditor of state. 50118

**Sec. 5101.20.** (A) As used in this section of the Revised 50119  
Code: 50120

(1) "Local area" has the same meaning as in section 101 of 50121  
the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 50122  
2801, as amended, and division (A) of section 6301.01 of the 50123

<u>Revised Code;</u>	50124
<u>(2) "Chief elected official" has the same meaning as in</u>	50125
<u>section 101 of the "Workforce Investment Act of 1998," 112 Stat.</u>	50126
<u>936, 29 U.S.C. 2801, as amended, and division (F) of section</u>	50127
<u>6301.01 of the Revised Code;</u>	50128
<u>(3) "Grantee" means the chief elected officials of a local</u>	50129
<u>area.</u>	50130
<u>(B) The director of job and family services shall enter into</u>	50131
<u>one or more written grant agreements with each local area under</u>	50132
<u>which financial assistance is awarded for workforce development</u>	50133
<u>activities included in the agreements. A grant agreement shall</u>	50134
<u>establish the terms and conditions governing the accountability</u>	50135
<u>for and use of grants provided by the department of job and family</u>	50136
<u>services to the grantee for the administration of workforce</u>	50137
<u>development activities funded under the "Workforce Investment Act</u>	50138
<u>of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended.</u>	50139
<u>(C) In the case of a local area comprised of multiple</u>	50140
<u>political subdivisions, nothing in this section shall preclude the</u>	50141
<u>chief elected officials of a local area from entering into an</u>	50142
<u>agreement among themselves to distribute any liability for</u>	50143
<u>activities of the local area, but such an agreement shall not be</u>	50144
<u>binding on the department of job and family services.</u>	50145
<u>(D) The written grant agreement entered into under division</u>	50146
<u>(B) of this section shall comply with all applicable federal and</u>	50147
<u>state laws governing workforce development activities. All federal</u>	50148
<u>conditions and restrictions that apply to the use of grants</u>	50149
<u>received by the department of job and family services shall apply</u>	50150
<u>to the use of the grants received by the local areas from the</u>	50151
<u>department.</u>	50152
<u>(E) A written grant agreement entered into under division (B)</u>	50153
<u>of this section shall:</u>	50154

<u>(1) Identify the chief elected officials for the local area;</u>	50155
<u>(2) Provide for the incorporation of the local workforce development plan;</u>	50156 50157
<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>	50158 50159 50160
<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>	50161 50162 50163 50164 50165 50166 50167
<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>	50168 50169 50170 50171
<u>(c) Require the chief elected officials and any subgrantee or contractor of the local area to do both of the following:</u>	50172 50173
<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>	50174 50175 50176 50177 50178
<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>	50179 50180 50181
<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>	50182 50183 50184

pays to any entity because of an adverse audit finding, adverse 50185  
quality control finding, final disallowance of federal financial 50186  
participation, or other sanction or penalty; 50187

(e) Require chief elected officials of a local area to take 50188  
prompt corrective action if the department, auditor of state, 50189  
federal agency, or other entity authorized by federal or state law 50190  
to determine compliance with requirements for a workforce 50191  
development duty included in the agreement determines compliance 50192  
has not been achieved; 50193

(4) Provide that the award of financial assistance is subject 50194  
to the availability of federal funds and appropriations made by 50195  
the general assembly; 50196

(5) Provide for annual financial, administrative, or other 50197  
incentive awards, if any, to be provided in accordance with 50198  
section 5101.23 of the Revised Code. 50199

(6) Establish the method of amending or terminating the grant 50200  
agreement and an expedited process for correcting terms or 50201  
conditions of the agreement that the director and the chief 50202  
elected officials agree are erroneous. 50203

(7) Provide for the department of job and family services to 50204  
award financial assistance for the workforce development duties 50205  
included in the agreement in accordance with a methodology for 50206  
determining the amount of the award established by rules adopted 50207  
under division (F) of this section. 50208

(8) Determine the dates that the grant agreement begins and 50209  
ends. 50210

(F)(1) The director shall adopt rules in accordance with 50211  
section 111.15 of the Revised Code governing grant agreements. The 50212  
director shall adopt the rules as if they were internal management 50213  
rules. The rules shall establish methodologies to be used to 50214  
determine the amount of financial assistance to be awarded under 50215

<u>the agreements and may do any of the following:</u>	50216
<u>(a) Govern the establishment of consolidated funding allocations and other allocations:</u>	50217
<u>(b) Specify allowable uses of financial assistance awarded under the agreements:</u>	50218
<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>	50219
<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>	50220
<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>	50221
<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>	50222
<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>	50223
<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>	50224
<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>	50225
<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>	50226
<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>	50227
<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>	50228
<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>	50229
<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>	50230
<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>	50231
<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>	50232
<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>	50233
<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>	50234
<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>	50235
<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>	50236
<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>	50237
<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>	50238
<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>	50239
<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>	50240
<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>	50241
<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>	50242
<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>	50243
<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>	50244

<u>section to enter into a fiscal agreement;</u>	50245
<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>	50246
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	50248
(B) The director of job and family services <del>shall</del> <u>may</u> enter into a <u>one or more</u> written <del>partnership agreement</del> <u>fiscal agreements</u> with <del>each board</del> <u>boards</u> of county commissioners.	50249
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	50251
<del>(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:</del>	50252
	50253
<del>(a) The Ohio works first program established under Chapter 5107. of the Revised Code;</del>	50254
	50255
<del>(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;</del>	50256
	50257
<del>(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;</del>	50258
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<del>(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;</del>	50261
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	50263
<del>(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.</del>	50264
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<del>(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.</del>	50269
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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.~~ 50275  
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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,~~ 50282  
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~~and county family services agencies' or workforce development~~ 50307  
~~agencies' cooperation to enhance, family services duties or~~ 50308  
~~workforce development activities included in the agreement~~ Specify 50309  
the family services duties included in the agreement and the 50310  
private and government entities designated under section 307.981 50311  
of the Revised Code to serve as the county family services 50312  
agencies performing the family services duties; 50313

(2) ~~Outcomes that county family services agencies or~~ 50314  
~~workforce development agencies are expected to achieve from the~~ 50315  
~~administration and design of family services duties or workforce~~ 50316  
~~development activities included in the agreement and assistance,~~ 50317  
~~services, and technical support the state department will provide~~ 50318  
~~the county family services agencies or workforce development~~ 50319  
~~agencies to aid the agencies in achieving the expected outcomes~~ 50320  
Provide for the department of job and family services to award 50321  
financial assistance for the family services duties included in 50322  
the agreement in accordance with a methodology for determining the 50323  
amount of the award established by rules adopted under division 50324  
(D) of this section; 50325

(3) ~~Performance and other administrative standards county~~ 50326  
~~family services agencies or workforce development agencies are~~ 50327  
~~required to meet in the design, administration, and outcomes of~~ 50328  
~~family services duties or workforce development activities~~ 50329  
~~included in the agreement and assistance, services, and technical~~ 50330  
~~support the state department will provide the county family~~ 50331  
~~services agencies or workforce development agencies to aid the~~ 50332  
~~agencies in meeting the performance and other administrative~~ 50333  
~~standards~~ Specify the form of the award of financial assistance 50334  
which may be an allocation, cash draw, reimbursement, property, 50335  
or, to the extent authorized by an appropriation made by the 50336  
general assembly and to the extent practicable and not in conflict 50337  
with a federal or state law, a consolidated funding allocation for 50338

two or more family services duties included in the agreement; 50339

~~(4) Criteria and methodology the state department will use to~~ 50340  
~~evaluate whether expected outcomes are achieved and performance~~ 50341  
~~and other administrative standards are met and county family~~ 50342  
~~services agencies or workforce development agencies will use to~~ 50343  
~~evaluate whether the state department is providing agreed upon~~ 50344  
~~assistance, services, and technical support~~ Provide that the award 50345  
of financial assistance is subject to the availability of federal 50346  
funds and appropriations made by the general assembly; 50347

(5) ~~Annual~~ Specify annual financial, administrative, or other 50348  
incentive awards, if any, to be provided in accordance with 50349  
section 5101.23 of the Revised Code; 50350

(6) ~~The state~~ Include the assurance of each county signer 50351  
that the county signer will do all of the following: 50352

(a) Ensure that the financial assistance awarded under the 50353  
agreement is used, and the family services duties included in the 50354  
agreement are performed, in accordance with requirements for the 50355  
duties established by the department, a federal or state law, or 50356  
any of the following that concern the family services duties 50357  
included in the fiscal agreement and are published under section 50358  
5101.212 of the Revised Code: state plans for receipt of federal 50359  
financial participation, grant agreements between the department 50360  
and a federal agency, and executive orders issued by the governor; 50361

(b) Ensure that the board and county family services agencies 50362  
utilize a financial management system and other accountability 50363  
mechanisms for the financial assistance awarded under the 50364  
agreement that meet requirements the department establishes; 50365

(c) Require the county family services agencies to do both of 50366  
the following: 50367

(i) Monitor all private and government entities that receive 50368  
a payment from financial assistance awarded under the agreement to 50369

ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement; 50370  
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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. 50373  
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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; 50376  
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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; 50383  
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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. 50390  
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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; 50395  
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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~~ 50398  
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~~under division (E) of this section. The agreement shall either~~ 50401  
~~specify the amount of payments to be made for the family services~~ 50402  
~~duties or workforce development activities included in the~~ 50403  
~~agreement or the method that will be used to determine the amount~~ 50404  
~~of payments.~~ 50405

(8) ~~Audits~~ Provide for timely audits required by federal 50406  
~~statutes and regulations~~ and state law and ~~requirements for~~ 50407  
require prompt release of audit findings and prompt action to 50408  
correct problems identified in an audit; 50409

(9) ~~Which, if any, of the state department's rules will be~~ 50410  
~~waived so that a policy provided for in the agreement may be~~ 50411  
~~implemented~~ Comply with all of the requirements for the family 50412  
services duties that are included in the agreement and have been 50413  
established by the department, federal or state law, or any of the 50414  
following that concern the family services duties included in the 50415  
fiscal agreement and are published under section 5101.212 of the 50416  
Revised Code: state plans for receipt of federal financial 50417  
participation, grant agreements between the department and a 50418  
federal agency, and executive orders issued by the governor; 50419

(10) ~~The~~ Provide for dispute resolution procedures in 50420  
accordance with section 5101.24 of the Revised Code; 50421

(11) Establish the method of amending or terminating the 50422  
agreement and an expedited process for correcting terms or 50423  
conditions of the agreement that the director and ~~board of each~~ 50424  
county ~~commissioners~~ signer agree are erroneous; 50425

~~(11) Dispute resolution procedures for anticipated and~~ 50426  
~~unanticipated disputes. The agreement may establish different~~ 50427  
~~dispute resolution procedures for different types of disputes.~~ 50428  
~~Dispute resolution procedures may include negotiation, mediation,~~ 50429  
~~arbitration, adjudication conducted by a hearing officer or~~ 50430  
~~fact-finding panel, and other procedures.~~ 50431

~~(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.~~ 50432  
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~~(13) If workforce development activities are included in the agreement, all of the following:~~ 50439  
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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;~~ 50441  
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50443

~~(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;~~ 50444  
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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:~~ 50449  
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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;~~ 50456  
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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.~~ 50460  
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~~(14) Other provisions determined necessary by the state department, board, county family services agency, and workforce development agency.~~ 50463  
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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.~~ 50466  
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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:~~ 50472  
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~~(a) Two or more family services duties included in the agreement;~~ 50476  
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~~(b) Two or more workforce development activities included in the agreement;~~ 50478  
50479

~~(c) One or more family services duties and workforce development activities included in the agreement.~~ 50480  
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~~(2) The consolidated funding allocation may be for either of the following:~~ 50482  
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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;~~ 50484  
50485

~~(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.~~ 50486  
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~~(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding~~ 50491  
50492

~~allocation only for the purpose for which the funds were~~ 50493  
~~appropriated.~~ 50494

(D)(1) The director shall adopt rules in accordance with 50495  
section 111.15 of the Revised Code governing fiscal agreements. 50496  
The director shall adopt the rules as if they were internal 50497  
management rules. Before adopting the rules, the director shall 50498  
give the public an opportunity to review and comment on the 50499  
proposed rules. The rules shall establish methodologies to be used 50500  
to determine the amount of financial assistance to be awarded 50501  
under the agreements. The rules also shall establish terms and 50502  
conditions under which an agreement may be entered into after the 50503  
first day of July of an odd-numbered year. The rules may do any or 50504  
all of the following: 50505

(a) Govern the establishment of consolidated funding 50506  
allocations and specify the time period for which a consolidated 50507  
funding allocation is to be provided if the effective date of the 50508  
agreement is after the first day of July of an odd-numbered year, 50509  
which may include a time period before the effective date of the 50510  
agreement; 50511

(b) Govern the establishment of other allocations; 50512

(c) Specify allowable uses of financial assistance awarded 50513  
under the agreements; 50514

(d) Establish reporting, cash management, audit, and other 50515  
requirements the director determines are necessary to provide 50516  
accountability for the use of financial assistance awarded under 50517  
the agreements and determine compliance with requirements 50518  
established by the department, a federal or state law, or any of 50519  
the following that concern the family services duties included in 50520  
the agreements and are published under section 5101.212 of the 50521  
Revised Code: state plans for receipt of federal financial 50522  
participation, grant agreements between the department and a 50523

federal entity, and executive orders issued by the governor. 50524

(2) A requirement of a fiscal agreement established by a rule 50525  
adopted under this division is applicable to a fiscal agreement 50526  
without having to be restated in the fiscal agreement. 50527

**Sec. 5101.211.** (A) Except as provided in division (B) of this 50528  
section, the director of job and family services may provide for a 50529  
fiscal agreement entered into under section 5101.21 of the Revised 50530  
Code to have a retroactive effective date of the first day of July 50531  
of an odd-numbered year if both of the following are the case: 50532

(1) The agreement is entered into after that date and before 50534  
the last day of that July. 50535

(2) The board of county commissioners requests the 50536  
retroactive effective date and provides the director good cause 50537  
satisfactory to the director for the reason the agreement was not 50538  
entered into on or before the first day of that July. 50539

(B) The director may provide for a fiscal agreement to have a 50540  
retroactive effective date of July 1, 2003, if both of the 50541  
following are the case: 50542

(1) The agreement is entered into after July 1, 2003, and 50543  
before August 29, 2003. 50544

(2) The board of county commissioners requests the 50545  
retroactive effective date. 50546

**Sec. 5101.212.** The department of job and family services 50547  
shall publish in a manner accessible to the public all of the 50548  
following that concern family services duties included in fiscal 50549  
agreements entered into under section 5101.21 of the Revised Code: 50550  
state plans for receipt of federal financial participation, grant 50551  
agreements between the department and a federal agency, and 50552

executive orders issued by the governor. The department may 50553  
publish the materials electronically or otherwise. 50554

Sec. 5101.213. (A) Except as provided in section 5101.211 of 50555  
the Revised Code, if a fiscal agreement under section 5101.21 of 50556  
the Revised Code between the director of job and family services 50557  
and a board of county commissioners is not in effect, all of the 50558  
following apply: 50559

(1) The department of job and family services shall award to 50560  
the county the board serves financial assistance for family 50561  
services duties in accordance with a methodology for determining 50562  
the amount of the award established by rules adopted under 50563  
division (B) of this section. 50564

(2) The financial assistance may be provided in the form of 50565  
allocations, cash draws, reimbursements, and property but may not 50566  
be made in the form of a consolidated funding allocation. 50567

(3) The award of the financial assistance is subject to the 50568  
availability of federal funds and appropriations made by the 50569  
general assembly. 50570

(4) The county family services agencies performing the family 50571  
services duties for which the financial assistance is awarded 50572  
shall do all of the following: 50573

(a) Use the financial assistance, and perform the family 50574  
services duties, in accordance with requirements for the duties 50575  
established by the department, a federal or state law, or any of 50576  
the following that concern the duties: state plans for receipt of 50577  
federal financial participation, grant agreements between the 50578  
department and a federal agency, and executive orders issued by 50579  
the governor; 50580

(b) Utilize a financial management system and other 50581  
accountability mechanisms for the financial assistance that meet 50582

requirements the department establishes; 50583

(c) Monitor all private and government entities that receive 50584  
a payment from the financial assistance to ensure that each entity 50585  
uses the payment in accordance with requirements for the family 50586  
services duties and take action to recover payments that are not 50587  
used in accordance with the requirements for the family services 50588  
duties; 50589

(d) Promptly reimburse the department the amount that 50590  
represents the amount an agency is responsible for, pursuant to 50591  
action the department takes under division (C) of section 5101.24 50592  
of the Revised Code, of funds the department pays to any entity 50593  
because of an adverse audit finding, adverse quality control 50594  
finding, final disallowance of federal financial participation, or 50595  
other sanction or penalty; 50596

(e) Take prompt corrective action, including paying amounts 50597  
resulting from an adverse finding, sanction, or penalty, if the 50598  
department, auditor of state, federal agency, or other entity 50599  
authorized by federal or state law to determine compliance with 50600  
requirements for a family services duty determines compliance has 50601  
not been achieved. 50602

(B) The director shall adopt rules in accordance with section 50603  
111.15 of the Revised Code as necessary to implement this section. 50604  
The director shall adopt the rules as if they were internal 50605  
management rules. Before adopting the rules, the director shall 50606  
give the public an opportunity to review and comment on the 50607  
proposed rules. The rules shall establish methodologies to be used 50608  
to determine the amount of financial assistance to be awarded and 50609  
may do any or all of the following: 50610

(1) Govern the establishment of funding allocations; 50611

(2) Specify allowable uses of financial assistance the 50612  
department awards under this section; 50613

(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 50674  
statistical sampling, performance audits, case reviews, or other 50675  
methods it determines necessary and appropriate to determine 50676  
compliance with performance and administrative standards. 50677

~~A performance or other administrative standard established 50678  
under this section for a family service duty or workforce 50679  
development activity does not apply to a county family services 50680  
agency or workforce development agency administering the duty if a 50681  
different performance or administrative standard is specified for 50682  
the agency's administration of the duty or activity pursuant to a 50683  
partnership agreement entered into under section 5101.21 or 50684  
5101.213 of the Revised Code. 50685~~

Sec. 5101.221. (A) Except as provided by division (C) of this 50686  
section, if the department of job and family services determines 50687  
that a county family services agency has failed to comply with a 50688  
performance or other administrative standard established under 50689  
section 5101.22 of the Revised Code for the administration or 50690  
outcome of a family services duty, the department shall require 50691  
the agency to develop, submit to the department for approval, and 50692  
comply with a corrective action plan. 50693

(B) If a county family services agency fails to develop, 50694  
submit to the department, or comply with a corrective action plan 50695  
under division (A) of this section, or the department disapproves 50696  
the agency's corrective action plan, the department may require 50697  
the agency to develop, submit to the department for approval, and 50698  
comply with a corrective action plan that requires the agency to 50699  
commit existing resources to the plan. 50700

(C) The department may not require a county family services 50701  
agency to take action under this section for failure to comply 50702  
with a performance or other administrative standard if either of 50703  
the following is the case: 50704

(1) Federal law requires the department to establish the standard. 50705  
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(2) The standard is established for an incentive. 50707

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. 50708  
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Sec. 5101.24. (A) As used in this section, "responsible entity" means ~~the following:~~ 50713  
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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.~~ 50715  
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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.~~ 50722  
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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 50728  
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responsible entity if the department determines any of the 50735  
following ~~apply to the county family services agency performing~~ 50736  
~~the family services duty or workforce development agency providing~~ 50737  
~~the workforce development activity are the case:~~ 50738

(1) ~~The agency fails to meet a performance standard specified~~ 50739  
~~in a partnership agreement entered into under section 5101.21 or~~ 50740  
~~established A requirement of a fiscal agreement entered into under~~ 50741  
~~section 5101.21 of the Revised Code that includes the family~~ 50742  
~~services duty, including a requirement for fiscal agreements~~ 50743  
~~established by rules adopted under that section, is not complied~~ 50744  
~~with;~~ 50745

(2) ~~A county family services agency fails to develop, submit~~ 50746  
~~to the department, or comply with a corrective action plan under~~ 50747  
~~division (B) of section 5101.221 of the Revised Code, or the~~ 50748  
~~department disapproves the agency's corrective action plan~~ 50749  
~~developed under division (B) of section 5101.22 5101.221 of the~~ 50750  
~~Revised Code for the duty or activity;~~ 50751

~~(2) The agency fails to comply with a~~ (3) ~~A requirement for~~ 50752  
~~the family services duty established by the department or any of~~ 50753  
~~the following is not complied with: a federal statute or~~ 50754  
~~regulations, state statute, or a department rule for the duty or~~ 50755  
~~activity law, state plan for receipt of federal financial~~ 50756  
~~participation, grant agreement between the department and a~~ 50757  
~~federal agency, or executive order issued by the governor;~~ 50758

~~(3)(4) The agency responsible entity is solely or partially~~ 50759  
~~responsible, as determined by the director of job and family~~ 50760  
~~services, for an adverse audit or finding, adverse quality control~~ 50761  
~~finding, final disallowance of federal financial participation, or~~ 50762  
~~other sanction or penalty regarding the family services duty or~~ 50763  
~~activity.~~ 50764

(C) The department may take one or more of the following 50765

actions against the responsible entity ~~if~~ when authorized by 50766  
division (B)(1), (2), ~~or~~ (3), or (4) of this section ~~applies:~~ 50767

(1) Require the responsible entity to ~~submit to and~~ comply 50768  
with a corrective action plan pursuant to a time schedule 50769  
specified by the department. The corrective action plan shall be 50770  
established or approved by the department and shall not require a 50771  
county family services agency to commit resources to the plan. 50772

(2) Require the responsible entity to comply with a 50773  
corrective action plan pursuant to a time schedule specified by 50774  
the department. The corrective action plan shall be established or 50775  
approved by the department and require a county family services 50776  
agency to commit to the plan existing resources identified by the 50777  
agency. 50778

(3) Require the responsible entity to do one of the 50779  
following: 50780

(a) Share with the department a final disallowance of federal 50781  
financial participation or other sanction or penalty; 50782

(b) Reimburse the department the final amount the department 50783  
pays to the federal government or another entity that represents 50784  
the amount the ~~agency~~ responsible entity is responsible for of an 50785  
adverse audit ~~or~~ finding, adverse quality control finding, final 50786  
disallowance of federal financial participation, or other sanction 50787  
or penalty issued by the federal government, auditor of state, or 50788  
other entity; 50789

(c) Pay the federal government or another entity the final 50790  
amount that represents the amount the ~~agency~~ responsible entity is 50791  
responsible for of an adverse audit ~~or~~ finding, adverse quality 50792  
control finding, final disallowance of federal financial 50793  
participation, or other sanction or penalty issued by the federal 50794  
government, auditor of state, or other entity; 50795

(d) Pay the department the final amount that represents the 50796

amount the responsible entity is responsible for of an adverse 50797  
audit finding or adverse quality control finding. 50798

~~(3)~~(4) Impose ~~a financial or~~ an administrative sanction ~~or~~ 50799  
~~adverse audit~~ issued by the department against the responsible 50800  
entity. A sanction may be increased if the department has 50801  
previously taken action against the responsible entity under this 50802  
division. 50803

~~(4)~~(5) Perform, or contract with a government or private 50804  
entity for the entity to perform, the family services duty ~~or~~ 50805  
~~workforce development activity~~ until the department is satisfied 50806  
that the responsible entity ensures that the duty ~~or activity~~ will 50807  
be performed satisfactorily. If the department performs or 50808  
contracts with an entity to perform a family services duty ~~or~~ 50809  
~~workforce development activity~~ under division (C)~~(4)~~(5) of this 50810  
section, the department may do either or both of the following: 50811

(a) Spend funds in the county treasury appropriated by the 50812  
board of county commissioners for the duty ~~or activity~~; 50813

(b) Withhold funds allocated or reimbursements due to the 50814  
responsible entity for the duty ~~or activity~~ and spend the funds 50815  
for the duty ~~or activity~~. 50816

~~(5)~~(6) Request that the attorney general bring mandamus 50817  
proceedings to compel the responsible entity to take or cease the 50818  
action that causes division (B)(1), (2), ~~or~~ (3), or (4) of this 50819  
section to apply. The attorney general shall bring mandamus 50820  
proceedings in the Franklin county court of appeals at the 50821  
department's request. 50822

(7) If the department takes action under this division 50823  
because of division (B)(3) of this section, withhold funds 50824  
allocated or reimbursement due to the responsible entity until the 50825  
department determines that the responsible entity is in compliance 50826  
with the requirement. The department shall release the funds when 50827

the department determines that compliance has been achieved. 50828

(D) If the department ~~decides~~ proposes to take action against 50829  
the responsible entity under division (C) of this section, the 50830  
department shall notify the responsible entity and county auditor. 50831  
The notice shall be in writing and specify the action the 50832  
department proposes to take. The department shall send the notice 50833  
by regular United States mail. 50834

~~The~~ Except as provided by division (E) of this section, the 50835  
responsible entity may request an administrative review of a 50836  
proposed action, ~~other than a proposed action under division~~ 50837  
~~(C)(5) of this section, by sending a written request to the~~ 50838  
~~department not later than~~ in accordance with administrative review 50839  
procedures the department shall establish. The administrative 50840  
review procedures shall comply with all of the following: 50841

(1) A request for an administrative review shall state 50842  
specifically all of the following: 50843

(a) The proposed action specified in the notice from the 50844  
department for which the review is requested; 50845

(b) The reason why the responsible entity believes the 50846  
proposed action is inappropriate; 50847

(c) All facts and legal arguments that the responsible entity 50848  
wants the department to consider; 50849

(d) The name of the person who will serve as the responsible 50850  
entity's representative in the review. 50851

(2) If the department's notice specifies more than one 50852  
proposed action and the responsible entity does not specify all of 50853  
the proposed actions in its request pursuant to division (D)(1)(a) 50854  
of this section, the proposed actions not specified in the request 50855  
shall not be subject to administrative review and the parts of the 50856  
notice regarding those proposed actions shall be final and binding 50857

on the responsible entity. 50858

(3) In the case of a proposed action under division (C)(1) of 50859  
this section, the responsible entity shall have fifteen calendar 50860  
days after the department mails the notice to the responsible 50861  
entity to send a written request to the department for an 50862  
administrative review. If it receives such a request within the 50863  
required time, the department shall postpone taking action under 50864  
division (C)(1) of this section for fifteen calendar days 50865  
following the day it receives the request. ~~The or extended period~~ 50866  
~~of time provided for in division (D)(5) of this section to allow a~~ 50867  
~~representative of the department and a representative of the~~ 50868  
responsible entity ~~shall attempt~~ an informal opportunity to 50869  
resolve any dispute during that fifteen-day or extended period. 50870

~~(2)(4)~~ (4) In the case of a proposed action under division 50871  
(C)(2), (3), (4), (5), or (7) of this section, ~~forty five the~~ 50872  
responsible entity shall have thirty calendar days after the 50873  
department mails the notice to the responsible entity to send a 50874  
written request to the department for an administrative review. 50875  
~~The administrative review shall be limited solely to the issue of~~ 50876  
~~the amount the responsible entity shall share with the department,~~ 50877  
~~reimburse the department, or pay to the federal government or~~ 50878  
~~another entity under division (C)(2) of this section. The~~ If it 50879  
receives such a request within the required time, the department 50880  
shall postpone taking action under division (C)(2), (3), (4), (5), 50881  
or (7) of this section for thirty calendar days following the day 50882  
it receives the request or extended period of time provided for in 50883  
division (D)(5) of this section to allow a representative of the 50884  
department and a representative of the responsible entity ~~shall~~ 50885  
~~attempt~~ an informal opportunity to resolve any dispute ~~within~~ 50886  
~~sixty days~~ during that thirty-day or extended period. 50887

~~(3)~~ In the case of a proposed action under division (C)(3) or 50888  
(4) of this section, ~~forty five days after the department mails~~ 50889

~~the notice to the responsible entity. The department and~~ 50890  
~~responsible entity shall attempt to resolve any dispute within~~ 50891  
~~sixty days.~~ 50892

~~If the department and responsible entity fail to resolve any~~ 50893  
~~dispute within the required time, the department shall conduct a~~ 50894  
~~hearing in accordance with Chapter 119. of the Revised Code,~~ 50895  
~~except that the department, notwithstanding section 119.07 of the~~ 50896  
~~Revised Code, is not required to schedule the hearing within~~ 50897  
~~fifteen days of the responsible entity's request.~~ 50898

~~(E)(5) If the informal opportunity provided in division~~ 50899  
~~(D)(3) or (4) of this section does not result in a written~~ 50900  
~~resolution to the dispute within the fifteen- or thirty-day~~ 50901  
~~period, the director of job and family services and representative~~ 50902  
~~of the responsible entity may enter into a written agreement~~ 50903  
~~extending the time period for attempting an informal resolution of~~ 50904  
~~the dispute under division (D)(3) or (4) of this section.~~ 50905

~~(6) In the case of a proposed action under division (C)(3) of~~ 50906  
~~this section, the responsible entity may not include in its~~ 50907  
~~request disputes over a finding, final disallowance of federal~~ 50908  
~~financial participation, or other sanction or penalty issued by~~ 50909  
~~the federal government, auditor of state, or entity other than the~~ 50910  
~~department.~~ 50911

~~(7) If the responsible entity fails to request an~~ 50912  
~~administrative review within the required time, the responsible~~ 50913  
~~entity loses the right to request an administrative review of the~~ 50914  
~~proposed actions specified in the notice and the notice becomes~~ 50915  
~~final and binding on the responsible entity.~~ 50916

~~(8) If the informal opportunity provided in division (D)(3)~~ 50917  
~~or (4) of this section does not result in a written resolution to~~ 50918  
~~the dispute within the time provided by division (D)(3), (4), or~~ 50919  
~~(5) of this section, the director shall appoint an administrative~~ 50920

review panel to conduct the administrative review. The review 50921  
panel shall consist of department employees and one director or 50922  
other representative of the type of county family services agency 50923  
that is responsible for the kind of family services duty that is 50924  
the subject of the dispute and serves a different county than the 50925  
county served by the responsible entity. No individual involved in 50926  
the department's proposal to take action against the responsible 50927  
entity may serve on the review panel. The review panel shall 50928  
review the responsible entity's request. The review panel may 50929  
require that the department or responsible entity submit 50930  
additional information and schedule and conduct an informal 50931  
hearing to obtain testimony or additional evidence. A review of a 50932  
proposal to take action under division (C)(3) of this section 50933  
shall be limited solely to the issue of the amount the responsible 50934  
entity shall share with the department, reimburse the department, 50935  
or pay to the federal government, department, or other entity 50936  
under division (C)(3) of this section. The review panel is not 50937  
required to make a stenographic record of its hearing or other 50938  
proceedings. 50939

(9) After finishing an administrative review, an 50940  
administrative review panel appointed under division (D)(8) of 50941  
this section shall submit a written report to the director setting 50942  
forth its findings of fact, conclusions of law, and 50943  
recommendations for action. The director may approve, modify, or 50944  
disapprove the recommendations. If the director modifies or 50945  
disapproves the recommendations, the director shall state the 50946  
reasons for the modification or disapproval and the actions to be 50947  
taken against the responsible entity. 50948

(10) The director's approval, modification, or disapproval 50949  
under division (D)(9) of this section shall be final and binding 50950  
on the responsible entity and shall not be subject to further 50951  
departmental review. 50952

<u>(E) The responsible entity is not entitled to an</u>	50953
<u>administrative review under division (D) of this section for any</u>	50954
<u>of the following:</u>	50955
<u>(1) An action taken under division (C)(6) of this section;</u>	50956
<u>(2) An action taken under section 5101.242 of the Revised</u>	50957
<u>Code;</u>	50958
<u>(3) An action taken under division (C)(3) of this section if</u>	50959
<u>the federal government, auditor of state, or entity other than the</u>	50960
<u>department has identified the county family services agency as</u>	50961
<u>being solely or partially responsible for an adverse audit</u>	50962
<u>finding, adverse quality control finding, final disallowance of</u>	50963
<u>federal financial participation, or other sanction or penalty;</u>	50964
<u>(4) An adjustment to an allocation, cash draw, advance, or</u>	50965
<u>reimbursement to a county family services agency that the</u>	50966
<u>department determines necessary for budgetary reasons;</u>	50967
<u>(5) Withholding of a cash draw or reimbursement due to</u>	50968
<u>noncompliance with a reporting requirement established in rules</u>	50969
<u>adopted under section 5101.243 of the Revised Code.</u>	50970
<u>(F) This section does not apply to other actions the</u>	50971
<u>department takes against the responsible entity pursuant to</u>	50972
<u>authority granted by another state law unless the other state law</u>	50973
<u>requires the department to take the action in accordance with this</u>	50974
<u>section.</u>	50975
<u>(G) The director of job and family services may adopt rules</u>	50976
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	50977
<u>to implement this section.</u>	50978
<b><u>Sec. 5101.241. (A) As used in this section:</u></b>	50979
<u>(1) "Local area" and "chief elected official" have the same</u>	50980
<u>meaning as in section 5101.20 of the Revised Code.</u>	50981

(2) "Responsible entity" means the chief elected officials of a local area. 50982  
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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: 50984  
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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; 50988  
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(2) A performance standard for the workforce development activity established by the federal government or the department is not met; 50993  
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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; 50996  
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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. 51001  
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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: 51007  
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(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the 51010  
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<u>department, pursuant to a time schedule specified by the</u>	51012
<u>department;</u>	51013
<u>(2) Require the responsible entity to do one of the</u>	51014
<u>following:</u>	51015
<u>(a) Share with the department a final disallowance of federal</u>	51016
<u>financial participation or other sanction or penalty;</u>	51017
<u>(b) Reimburse the department the amount the department pays</u>	51018
<u>to the federal government or another entity that represents the</u>	51019
<u>amount the responsible entity is responsible for of an adverse</u>	51020
<u>audit finding, adverse quality control finding, final disallowance</u>	51021
<u>of federal financial participation, or other sanction or penalty</u>	51022
<u>issued by the federal government, auditor of state, or other</u>	51023
<u>entity;</u>	51024
<u>(c) Pay the federal government or another entity the amount</u>	51025
<u>that represents the amount the responsible entity is responsible</u>	51026
<u>for of an adverse audit finding, adverse quality control finding,</u>	51027
<u>final disallowance of federal financial participation, or other</u>	51028
<u>sanction or penalty issued by the federal government, auditor of</u>	51029
<u>state, or other entity;</u>	51030
<u>(d) Pay the department the amount that represents the amount</u>	51031
<u>the responsible entity is responsible for of an adverse audit</u>	51032
<u>finding, adverse quality control finding, or other sanction or</u>	51033
<u>penalty issued by the department.</u>	51034
<u>(3) Impose a financial or administrative sanction or adverse</u>	51035
<u>audit finding issued by the department against the responsible</u>	51036
<u>entity, which may be increased with each subsequent action taken</u>	51037
<u>against the responsible entity.</u>	51038
<u>(4) Perform or contract with a government or private entity</u>	51039
<u>for the entity to perform the workforce development activity until</u>	51040
<u>the department is satisfied that the responsible entity ensures</u>	51041
<u>that the activity will be performed to the department's</u>	51042

satisfaction. If the department performs or contracts with an 51043  
entity to perform the workforce development activity under 51044  
division (C)(4) of this section, the department may withhold funds 51045  
allocated to or reimbursements due to the responsible entity for 51046  
the activity and use those funds to implement division (C)(4) of 51047  
this section. 51048

(5) Request the attorney general to bring mandamus 51049  
proceedings to compel the responsible entity to take or cease the 51050  
actions listed in division (B) of this section. The attorney 51051  
general shall bring any mandamus proceedings in the Franklin 51052  
county court of appeals at the department's request. 51053

(6) If the department takes action under this division 51054  
because of division (B)(3) of this section, withhold funds 51055  
allocated or reimbursement due to the responsible entity until the 51056  
department determines that the responsible entity is in compliance 51057  
with the requirement. The department shall release the funds when 51058  
the department determines that compliance has been achieved. 51059

(D) The department shall notify the responsible entity and 51060  
the appropriate county auditor when the department proposes to 51061  
take action under division (C) of this section. The notice shall 51062  
be in writing and specify the action the department proposes to 51063  
take. The department shall send the notice by regular United 51064  
States mail. Except as provided in division (E) of this section, 51065  
the responsible entity may request an administrative review of a 51066  
proposed action in accordance with administrative review 51067  
procedures the department shall establish. The administrative 51068  
review procedures shall comply with all of the following: 51069

(1) A request for an administrative review shall state 51070  
specifically all of the following: 51071

(a) The proposed action specified in the notice from the 51072  
department for which the review is requested; 51073

(b) The reason why the responsible entity believes the proposed action is inappropriate; 51074  
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(c) All facts and legal arguments that the responsible entity wants the department to consider; 51076  
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(d) The name of the person who will serve as the responsible entity's representative in the review. 51078  
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(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. 51080  
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(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. 51087  
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(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 51098  
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days following the day it receives the request to allow a 51105  
representative of the department and a representative of the 51106  
responsible entity an informal opportunity to resolve any dispute 51107  
during that thirty-day period. 51108

(5) In the case of a proposed action under division (C)(2) of 51109  
this section, the responsible entity may not include in its 51110  
request disputes over a finding, final disallowance of federal 51111  
financial participation, or other sanction or penalty issued by 51112  
the federal government, auditor of state, or other entity other 51113  
than the department. 51114

(6) If the responsible entity fails to request an 51115  
administrative review within the required time, the responsible 51116  
entity loses the right to request an administrative review of the 51117  
proposed actions specified in the notice and the notice becomes 51118  
final and binding on the responsible entity. 51119

(7) If the informal opportunity provided in division (D)(3) 51120  
or (4) of this section does not result in a written resolution to 51121  
the dispute, the director of job and family services shall appoint 51122  
an administrative review panel to conduct the administrative 51123  
review. The review panel shall consist of department employees who 51124  
are not involved in the department's proposal to take action 51125  
against the responsible entity. The review panel shall review the 51126  
responsible entity's request. The review panel may require that 51127  
the department or responsible entity submit additional information 51128  
and schedule and conduct an informal hearing to obtain testimony 51129  
or additional evidence. A review of a proposal to take action 51130  
under division (C)(2) of this section shall be limited solely to 51131  
the issue of the amount the responsible entity shall share with 51132  
the department, reimburse the department, or pay to the federal 51133  
government, department, or other entity under division (C)(2) of 51134  
this section. The review panel is not required to make a 51135  
stenographic record of its hearing or other proceedings. 51136

(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. 51137  
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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. 51146  
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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: 51150  
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(1) An action taken under division (C)(5) or (6) of this section; 51153  
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(2) An action taken under section 5101.242 of the Revised Code; 51155  
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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; 51157  
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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; 51163  
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(5) Withholding of a cash draw or reimbursement due to 51166

noncompliance with a reporting requirement established in rules 51167  
adopted under section 5101.243 of the Revised Code. 51168

(F) This section does not apply to other actions the 51169  
department takes against the responsible entity pursuant to 51170  
authority granted by another state law unless the other state law 51171  
requires the department to take the action in accordance with this 51172  
section. 51173

(G) The director of job and family services may adopt rules 51174  
in accordance with Chapter 119. of the Revised Code as necessary 51175  
to implement this section. 51176

Sec. 5101.242. The department of job and family services may 51177  
certify a claim to the attorney general under section 131.02 of 51178  
the Revised Code for the attorney general to take action under 51179  
that section against a responsible entity to recover any funds 51180  
that the department determines the responsible entity owes the 51181  
department for actions taken under division (C)(2), (3), (4), or 51182  
(5) of section 5101.24 or 5101.241 of the Revised Code. 51183

Sec. 5101.243. The director of job and family services may 51184  
adopt rules in accordance with section 111.15 of the Revised Code 51185  
establishing reporting requirements for family services duties and 51186  
workforce development activities. If the director adopts the 51187  
rules, the director shall adopt the rules as if they were internal 51188  
management rules and, before adopting the rules, give the public 51189  
an opportunity to review and comment on the proposed rules. 51190

Sec. 5101.26. As used in this section and in sections 5101.27 51191  
to 5101.30 of the Revised Code: 51192

(A) "County agency" means a county department of job and 51193  
family services or a public children services agency. 51194

(B) "Fugitive felon" means an individual who is fleeing to 51195

avoid prosecution, or custody or confinement after conviction, 51196  
under the laws of the place from which the individual is fleeing, 51197  
for a crime or an attempt to commit a crime that is a felony under 51198  
the laws of the place from which the individual is fleeing or, in 51199  
the case of New Jersey, a high misdemeanor, regardless of whether 51200  
the individual has departed from the individual's usual place of 51201  
residence. 51202

(C) "Information" means records as defined in section 149.011 51203  
of the Revised Code, any other documents in any format, and data 51204  
derived from records and documents that are generated, acquired, 51205  
or maintained by the department of job and family services, a 51206  
county agency, or an entity performing duties on behalf of the 51207  
department or a county agency. 51208

(D) "Law enforcement agency" means the state highway patrol, 51209  
an agency that employs peace officers as defined in section 109.71 51210  
of the Revised Code, the adult parole authority, a county 51211  
department of probation, a prosecuting attorney, the attorney 51212  
general, similar agencies of other states, federal law enforcement 51213  
agencies, and postal inspectors. "Law enforcement agency" includes 51214  
the peace officers and other law enforcement officers employed by 51215  
the agency. 51216

(E) "Medical assistance provided under a public assistance 51217  
program" means medical assistance provided under the programs 51218  
established under sections 5101.49, 5101.50 to 5101.503, and 51219  
5101.51 to 5101.5110, Chapters 5111. and 5115., or any other 51220  
provision of the Revised Code. 51221

(F) "Public assistance" means financial assistance, medical 51222  
assistance, or social services provided under a program 51223  
administered by the department of job and family services or a 51224  
county agency pursuant to Chapter 329., 5101., 5104., 5107., 51225  
5108., 5111., or 5115. of the Revised Code or an executive order 51226  
issued under section 107.17 of the Revised Code. 51227

~~(F)~~(G) "Public assistance recipient" means an applicant for 51228  
or recipient or former recipient of public assistance. 51229

**Sec. 5101.27.** (A) Except as permitted by this section, 51230  
section 5101.28 or 5101.29 of the Revised Code, or the rules 51231  
adopted under division (A) of section 5101.30 of the Revised Code, 51232  
or required by federal law, no person or government entity shall 51233  
solicit, disclose, receive, use, or knowingly permit, or 51234  
participate in the use of any information regarding a public 51235  
assistance recipient for any purpose not directly connected with 51236  
the administration of a public assistance program. 51237

(B)~~(1)~~ To the extent permitted by federal law, the department 51238  
of job and family services and county agencies shall ~~release~~ do 51239  
both of the following: 51240

(1) Release information regarding a public assistance 51241  
recipient for purposes directly connected to the administration of 51242  
the program to a government entity responsible for administering a 51243  
that public assistance program ~~or any other state, federal, or~~ 51244  
~~federally assisted program that provides cash or in-kind~~ 51245  
~~assistance or services directly to individuals based on need or~~ 51246  
~~for the purpose of protecting children to a government entity~~ 51247  
~~responsible for administering a children's protective services~~ 51248  
~~program.~~i 51249

~~(2) To the extent permitted by federal law, the department~~ 51250  
~~and county agencies shall provide~~ Provide information regarding a 51251  
public assistance recipient to a law enforcement agency for the 51252  
purpose of any investigation, prosecution, or criminal or civil 51253  
proceeding relating to the administration of a that public 51254  
assistance program. 51255

(C) To the extent permitted by federal law and section 51256  
1347.08 of the Revised Code, the department and county agencies 51257

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~~ 51288  
~~individual cannot rescind consent retroactively. The document~~ 51289  
~~evidencing consent must state that consent may be rescinded in~~ 51290  
~~accordance with the authorization. The department or county agency~~ 51291  
~~shall provide, at no cost, a copy of each written authorization to~~ 51292  
~~the individual who signed it.~~ 51293

(F) The department or a county agency may release information 51294  
under this division (D) of this section concerning a the receipt 51295  
of medical assistance provided under Chapter 5111. of the Revised 51296  
Code a public assistance program only if both all of the following 51297  
conditions are the case met: 51298

(1) The release of information is for purposes directly 51299  
connected to the administration of ~~programs created under Chapter~~ 51300  
~~5111. of the Revised Code or services provision of medical~~ 51301  
~~assistance provided under programs created under that chapter a~~ 51302  
~~public assistance program;~~ 51303

(2) The information is released to persons or government 51304  
entities that are subject to standards of confidentiality and 51305  
safeguarding information substantially comparable to those 51306  
established for ~~programs created under Chapter 5111. of the~~ 51307  
~~Revised Code medical assistance provided under a public assistance~~ 51308  
~~program;~~ 51309

(3) The department or county agency has obtained an 51310  
authorization consistent with section 5101.271 of the Revised 51311  
Code. 51312

(G) Information concerning the receipt of medical assistance 51313  
provided under a public assistance program may be released only if 51314  
the release complies with this section and rules adopted by the 51315  
department pursuant to section 5101.30 of the Revised Code or, if 51316  
more restrictive, the Health Insurance Portability and 51317  
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 51318

42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 51319  
the United States department of health and human services to 51320  
implement the act. 51321

(H) The department of job and family services may adopt rules 51322  
defining "authorized representative" for purposes of division 51323  
(C)(2) of this section. 51324

Sec. 5101.271. (A) For the purposes of section 5101.27 of the 51325  
Revised Code, an authorization shall be made on a form that uses 51326  
language understandable to the average person and contains all of 51327  
the following: 51328

(1) A description of the information to be used or disclosed 51329  
that identifies the information in a specific and meaningful 51330  
fashion; 51331

(2) The name or other specific identification of the person 51332  
or class of persons authorized to make the requested use or 51333  
disclosure; 51334

(3) The name or other specific identification of the person 51335  
or governmental entity to which the information may be released; 51336

(4) A description of each purpose of the requested use or 51337  
disclosure of the information; 51338

(5) The date on which the authorization expires or an event 51339  
related either to the individual who is the subject of the request 51340  
or to the purposes of the requested use or disclosure, the 51341  
occurrence of which will cause the authorization to expire; 51342

(6) A statement that the information used or disclosed 51343  
pursuant to the authorization may be disclosed by the recipient of 51344  
the information and may no longer be protected from disclosure; 51345

(7) The signature of the individual or the individual's 51346  
authorized representative and the date on which the authorization 51347  
was signed; 51348

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual; 51349  
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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: 51351  
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(a) A description of how the individual or authorized representative may revoke the authorization; 51354  
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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. 51356  
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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. 51360  
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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. 51364  
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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: 51370  
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~~(1) A a fugitive felon;~~ 51379

~~(2) Violating felon or violating a condition of probation, a~~ 51380  
community control sanction, parole, or a post-release control 51381  
sanction imposed under state or federal law. 51382

(2) A county agency may enter into a written agreement with a 51383  
local law enforcement agency establishing procedures concerning 51384  
access to information and providing for compliance with division 51385  
(F) of this section. 51386

(B) The To the extent permitted by federal law, the 51387  
department and county agencies shall provide information, except 51388  
information directly related to the receipt of medical assistance 51389  
or medical services, regarding recipients of public assistance 51390  
under a program administered by the state department or a county 51391  
agency pursuant to Chapter 5107., 5108., or 5115. of the Revised 51392  
Code to law enforcement agencies on request for the purposes of 51393  
investigations, prosecutions, and criminal and civil proceedings 51394  
that are within the scope of the law enforcement agencies' 51395  
official duties. 51396

(C) Information about a recipient shall be exchanged, 51397  
obtained, or shared only if the department, county agency, or law 51398  
enforcement agency requesting the information gives sufficient 51399  
information to specifically identify the recipient. In addition to 51400  
the recipient's name, identifying information may include the 51401  
recipient's current or last known address, social security number, 51402  
other identifying number, age, gender, physical characteristics, 51403  
any information specified in an agreement entered into under 51404  
division (A) of this section, or any information considered 51405  
appropriate by the department or agency. 51406

(D)(1) The department and its officers and employees are not 51407  
liable in damages in a civil action for any injury, death, or loss 51408  
to person or property that allegedly arises from the release of 51409

information in accordance with divisions (A), (B), and (C) of this 51410  
section. This section does not affect any immunity or defense that 51411  
the department and its officers and employees may be entitled to 51412  
under another section of the Revised Code or the common law of 51413  
this state, including section 9.86 of the Revised Code. 51414

(2) The county agencies and their employees are not liable in 51415  
damages in a civil action for any injury, death, or loss to person 51416  
or property that allegedly arises from the release of information 51417  
in accordance with divisions (A), (B), and (C) of this section. 51418  
"Employee" has the same meaning as in division (B) of section 51419  
2744.01 of the Revised Code. This section does not affect any 51420  
immunity or defense that the county agencies and their employees 51421  
may be entitled to under another section of the Revised Code or 51422  
the common law of this state, including section 2744.02 and 51423  
division (A)(6) of section 2744.03 of the Revised Code. 51424

(E) To the extent permitted by federal law, the department 51425  
and county agencies shall provide access to information to the 51426  
auditor of state acting pursuant to Chapter 117. or sections 51427  
5101.181 and 5101.182 of the Revised Code and to any other 51428  
government entity authorized by ~~or~~ federal law to conduct an audit 51429  
of or similar activity involving a public assistance program. 51430

(F) The auditor of state shall prepare an annual report on 51431  
the outcome of the agreements required under division (A) of this 51432  
section. The report shall include the number of fugitive felons 51433  
and probation and parole violators apprehended during the 51434  
immediately preceding year as a result of the exchange of 51435  
information pursuant to that division. The auditor of state shall 51436  
file the report with the governor, the president and minority 51437  
leader of the senate, and the speaker and minority leader of the 51438  
house of representatives. The state department, county agencies, 51439  
and law enforcement agencies shall cooperate with the auditor of 51440  
state's office in gathering the information required under this 51441

division. 51442

(G) To the extent permitted by federal law, the department of 51443  
job and family services, county departments of job and family 51444  
services, and employees of the departments may report to a public 51445  
children services agency or other appropriate agency information 51446  
on known or suspected physical or mental injury, sexual abuse or 51447  
exploitation, or negligent treatment or maltreatment, of a child 51448  
receiving public assistance, if circumstances indicate that the 51449  
child's health or welfare is threatened. 51450

**Sec. 5101.35.** (A) As used in this section: 51451

(1) "Agency" means the following entities that administer a 51452  
family services program: 51453

(a) The department of job and family services; 51454

(b) A county department of job and family services; 51455

(c) A public children services agency; 51456

(d) A private or government entity administering, in whole or 51457  
in part, a family services program for or on behalf of the 51458  
department of job and family services or a county department of 51459  
job and family services or public children services agency. 51460

(2) "Appellant" means an applicant, participant, former 51461  
participant, recipient, or former recipient of a family services 51462  
program who is entitled by federal or state law to a hearing 51463  
regarding a decision or order of the agency that administers the 51464  
program. 51465

(3) "Family services program" means assistance provided under 51466  
a Title IV-A program as defined in section 5101.80 of the Revised 51467  
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 51468  
5101.141, 5101.46, 5101.54, 5153.163, or 5153.165 of the Revised 51469  
Code, other than assistance provided under section 5101.46 of the 51470  
Revised Code by the department of mental health, the department of 51471

mental retardation and developmental disabilities, a board of 51472  
alcohol, drug addiction, and mental health services, or a county 51473  
board of mental retardation and developmental disabilities. 51474

(B) Except as provided ~~in~~ by division (G) of this section, an 51475  
appellant who appeals under federal or state law a decision or 51476  
order of an agency administering a family services program shall, 51477  
at the appellant's request, be granted a state hearing by the 51478  
department of job and family services. This state hearing shall be 51479  
conducted in accordance with rules adopted under this section. The 51480  
state hearing shall be tape-recorded, but neither the recording 51481  
nor a transcript of the recording shall be part of the official 51482  
record of the proceeding. A state hearing decision is binding upon 51483  
the agency and department, unless it is reversed or modified on 51484  
appeal to the director of job and family services or a court of 51485  
common pleas. 51486

(C) Except as provided by division (G) of this section, an 51487  
appellant who disagrees with a state hearing decision may make an 51488  
administrative appeal to the director of job and family services 51489  
in accordance with rules adopted under this section. This 51490  
administrative appeal does not require a hearing, but the director 51491  
or the director's designee shall review the state hearing decision 51492  
and previous administrative action and may affirm, modify, remand, 51493  
or reverse the state hearing decision. Any person designated to 51494  
make an administrative appeal decision on behalf of the director 51495  
shall have been admitted to the practice of law in this state. An 51496  
administrative appeal decision is the final decision of the 51497  
department and is binding upon the department and agency, unless 51498  
it is reversed or modified on appeal to the court of common pleas. 51499

(D) An agency shall comply with a decision issued pursuant to 51500  
division (B) or (C) of this section within the time limits 51501  
established by rules adopted under this section. If a county 51502  
department of job and family services or a public children 51503

services agency fails to comply within these time limits, the 51504  
department may take action pursuant to section 5101.24 of the 51505  
Revised Code. If another agency fails to comply within the time 51506  
limits, the department may force compliance by withholding funds 51507  
due the agency or imposing another sanction established by rules 51508  
adopted under this section. 51509

(E) An appellant who disagrees with an administrative appeal 51510  
decision of the director of job and family services or the 51511  
director's designee issued under division (C) of this section may 51512  
appeal from the decision to the court of common pleas pursuant to 51513  
section 119.12 of the Revised Code. The appeal shall be governed 51514  
by section 119.12 of the Revised Code except that: 51515

(1) The person may appeal to the court of common pleas of the 51516  
county in which the person resides, or to the court of common 51517  
pleas of Franklin county if the person does not reside in this 51518  
state. 51519

(2) The person may apply to the court for designation as an 51520  
indigent and, if the court grants this application, the appellant 51521  
shall not be required to furnish the costs of the appeal. 51522

(3) The appellant shall mail the notice of appeal to the 51523  
department of job and family services and file notice of appeal 51524  
with the court within thirty days after the department mails the 51525  
administrative appeal decision to the appellant. For good cause 51526  
shown, the court may extend the time for mailing and filing notice 51527  
of appeal, but such time shall not exceed six months from the date 51528  
the department mails the administrative appeal decision. Filing 51529  
notice of appeal with the court shall be the only act necessary to 51530  
vest jurisdiction in the court. 51531

(4) The department shall be required to file a transcript of 51532  
the testimony of the state hearing with the court only if the 51533  
court orders the department to file the transcript. The court 51534

shall make such an order only if it finds that the department and 51535  
the appellant are unable to stipulate to the facts of the case and 51536  
that the transcript is essential to a determination of the appeal. 51537  
The department shall file the transcript not later than thirty 51538  
days after the day such an order is issued. 51539

(5) Section 119.092 of the Revised Code does not apply to the 51540  
appeal. 51541

(F) The department of job and family services shall adopt 51542  
rules in accordance with Chapter 119. of the Revised Code to 51543  
implement this section, including rules governing the following: 51544

(1) State hearings under division (B) of this section. The 51545  
rules shall include provisions regarding notice of eligibility 51546  
termination and the opportunity of an appellant appealing a 51547  
decision or order of a county department of job and family 51548  
services to request a county conference with the county department 51549  
before the state hearing is held. 51550

(2) Administrative appeals under division (C) of this 51551  
section; 51552

(3) Time limits for complying with a decision issued under 51553  
division (B) or (C) of this section; 51554

(4) Sanctions that may be applied against an agency under 51555  
division (D) of this section. 51556

(G) The department of job and family services may adopt rules 51557  
in accordance with Chapter 119. of the Revised Code establishing 51558  
~~in~~ an appeals process for an appellant who appeals a decision or 51559  
order regarding a Title IV-A program identified under division 51560  
(A)(3)(c) or (d) of section 5101.80 of the Revised Code that is 51561  
different from the appeals process established by this section. 51562  
The different appeals process may include having a state agency 51563  
that administers the Title IV-A program pursuant to an interagency 51564  
agreement entered into under section 5101.801 of the Revised Code 51565

administer the appeals process. 51566

(H) The requirements of Chapter 119. of the Revised Code 51567  
apply to a state hearing or administrative appeal under this 51568  
section only to the extent, if any, specifically provided by rules 51569  
adopted under this section. 51570

**Sec. 5101.36.** Any application for public assistance gives a 51571  
right of subrogation to the department of job and family services 51572  
for any workers' compensation benefits payable to a person who is 51573  
subject to a support order, as defined in section 3119.01 of the 51574  
Revised Code, on behalf of the applicant, to the extent of any 51575  
public assistance payments made on the applicant's behalf. If the 51576  
director of job and family services, in consultation with a child 51577  
support enforcement agency and the administrator of the bureau of 51578  
workers' compensation, determines that a person responsible for 51579  
support payments to a recipient of public assistance is receiving 51580  
workers' compensation, the director shall notify the administrator 51581  
of the amount of the benefit to be paid to the department of job 51582  
and family services. 51583

For purposes of this section, "public assistance" means 51584  
medical assistance provided through the medical assistance program 51585  
established under section 5111.01 of the Revised Code; Ohio works 51586  
first provided under Chapter 5107. of the Revised Code; 51587  
prevention, retention, and contingency benefits and services 51588  
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 51589  
financial assistance provided under Chapter 5115. of the Revised 51590  
Code; or disability medical assistance provided under Chapter 51591  
5115. of the Revised Code. 51592

**Sec. 5101.58.** As used in this section and section 5101.59 of 51593  
the Revised Code, "public assistance" means aid provided under 51594  
Chapter 5111. or 5115. of the Revised Code and participation in 51595

the Ohio works first program established under Chapter 5107. of 51596  
the Revised Code. 51597

The acceptance of public assistance gives a right of recovery 51598  
to the department of job and family services and a county 51599  
department of job and family services against the liability of a 51600  
third party for the cost of medical services and care arising out 51601  
of injury, disease, or disability of the public assistance 51602  
recipient or participant. When an action or claim is brought 51603  
against a third party by a public assistance recipient or 51604  
participant, the entire amount of any settlement or compromise of 51605  
the action or claim, or any court award or judgment, is subject to 51606  
the recovery right of the department of job and family services or 51607  
county department of job and family services. Except in the case 51608  
of a recipient or participant who receives medical services or 51609  
care through a managed care organization, the department's or 51610  
county department's claim shall not exceed the amount of medical 51611  
expenses paid by the departments on behalf of the recipient or 51612  
participant. In the case of a recipient or participant who 51613  
receives medical services or care through a managed care 51614  
organization, the amount of the department's or county 51615  
department's claim shall be the amount the managed care 51616  
organization pays for medical services or care rendered to the 51617  
recipient or participant, even if that amount is more than the 51618  
amount the departments pay to the managed care organization for 51619  
the recipient's or participant's medical services or care. Any 51620  
settlement, compromise, judgment, or award that excludes the cost 51621  
of medical services or care shall not preclude the departments 51622  
from enforcing their rights under this section. 51623

Prior to initiating any recovery action, the recipient or 51624  
participant, or the recipient's or participant's representative, 51625  
shall disclose the identity of any third party against whom the 51626  
recipient or participant has or may have a right of recovery. 51627

Disclosure shall be made to the department of job and family 51628  
services when medical expenses have been paid pursuant to Chapter 51629  
5111. or 5115. of the Revised Code. Disclosure shall be made to 51630  
both the department of job and family services and the appropriate 51631  
county department of job and family services when medical expenses 51632  
have been paid pursuant to Chapter 5115. of the Revised Code. No 51633  
settlement, compromise, judgment, or award or any recovery in any 51634  
action or claim by a recipient or participant where the 51635  
departments have a right of recovery shall be made final without 51636  
first giving the appropriate departments notice and a reasonable 51637  
opportunity to perfect their rights of recovery. If the 51638  
departments are not given appropriate notice, the recipient or 51639  
participant is liable to reimburse the departments for the 51640  
recovery received to the extent of medical payments made by the 51641  
departments. The departments shall be permitted to enforce their 51642  
recovery rights against the third party even though they accepted 51643  
prior payments in discharge of their rights under this section if, 51644  
at the time the departments received such payments, they were not 51645  
aware that additional medical expenses had been incurred but had 51646  
not yet been paid by the departments. The third party becomes 51647  
liable to the department of job and family services or county 51648  
department of job and family services as soon as the third party 51649  
is notified in writing of the valid claims for recovery under this 51650  
section. 51651

The right of recovery does not apply to that portion of any 51652  
judgment, award, settlement, or compromise of a claim, to the 51653  
extent of attorneys' fees, costs, or other expenses incurred by a 51654  
recipient or participant in securing the judgment, award, 51655  
settlement, or compromise, or to the extent of medical, surgical, 51656  
and hospital expenses paid by such recipient or participant from 51657  
the recipient's or participant's own resources. Attorney fees and 51658  
costs or other expenses in securing any recovery shall not be 51659  
assessed against any claims of the departments. 51660

To enforce their recovery rights, the departments may do any 51661  
of the following: 51662

(A) Intervene or join in any action or proceeding brought by 51663  
the recipient or participant or on the recipient's or 51664  
participant's behalf against any third party who may be liable for 51665  
the cost of medical services and care arising out of the 51666  
recipient's or participant's injury, disease, or disability; 51667

(B) Institute and pursue legal proceedings against any third 51668  
party who may be liable for the cost of medical services and care 51669  
arising out of the recipient's or participant's injury, disease, 51670  
or disability; 51671

(C) Initiate legal proceedings in conjunction with the 51672  
injured, diseased, or disabled recipient or participant or the 51673  
recipient's or participant's legal representative. 51674

Recovery rights created by this section may be enforced 51675  
separately or jointly by the department of job and family services 51676  
and the county department of job and family services. 51677

The right of recovery given to the department under this 51678  
section does not include rights to support from any other person 51679  
assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 51680  
of the Revised Code, but includes payments made by a third party 51681  
under contract with a person having a duty to support. 51682

The director of job and family services may adopt rules in 51683  
accordance with Chapter 119. of the Revised Code the department 51684  
considers necessary to implement this section. 51685

**Sec. 5101.59.** (A) The application for or acceptance of public 51686  
assistance constitutes an automatic assignment of certain rights 51687  
to the department of job and family services. This assignment 51688  
includes the rights of the applicant, recipient, or participant 51689  
and also the rights of any other member of the assistance group 51690

for whom the applicant, recipient, or participant can legally make an assignment. 51691  
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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. 51693  
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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. 51702  
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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. 51706  
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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. 51716  
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The rights of assignment given to the department under this 51721

section do not include rights to support assigned under section 51722  
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 51723

(C) The director of job and family services may adopt rules 51724  
in accordance with Chapter 119. of the Revised Code to implement 51725  
this section, including rules that specify what constitutes 51726  
cooperating with efforts to obtain medical support and payments 51727  
and when the cooperation requirement may be waived. 51728

**Sec. 5101.75.** (A) As used in sections 5101.75, 5101.751, 51729  
5101.752, 5101.753, and 5101.754 of the Revised Code: 51730

(1) "Alternative source of long-term care" includes a 51731  
residential care facility licensed under Chapter 3721. of the 51732  
Revised Code, an adult care facility licensed under Chapter 3722. 51733  
of the Revised Code, home and community-based services, and a 51734  
nursing home licensed under Chapter 3721. of the Revised Code that 51735  
is not a nursing facility. 51736

(2) "Medicaid" means the medical assistance program 51737  
established under Chapter 5111. of the Revised Code. 51738

(3) "Nursing facility" has the same meaning as in section 51739  
5111.20 of the Revised Code. 51740

(4) "Representative" means a person acting on behalf of an 51741  
applicant for admission to a nursing facility. A representative 51742  
may be a family member, attorney, hospital social worker, or any 51743  
other person chosen to act on behalf of an applicant. 51744

(5) "Third-party payment source" means a third-party payer as 51745  
defined in section 3901.38 of the Revised Code or medicaid. 51746

(B) Effective July 1, 1994, the department of job and family 51747  
services may assess a person applying or intending to apply for 51748  
admission to a nursing facility who is not an applicant for or 51749  
recipient of medicaid to determine whether the person is in need 51750  
of nursing facility services and whether an alternative source of 51751

long-term care is more appropriate for the person in meeting the 51752  
person's physical, mental, and psychosocial needs than admission 51753  
to the facility to which the person has applied. 51754

Each assessment shall be performed by the department or an 51755  
agency designated by the department under section 5101.751 of the 51756  
Revised Code and shall be based on information provided by the 51757  
person or the person's representative. It shall consider the 51758  
person's physical, mental, and psychosocial needs and the 51759  
availability and effectiveness of informal support and care. The 51760  
department or designated agency shall determine the person's 51761  
physical, mental, and psychosocial needs by using, to the maximum 51762  
extent appropriate, information from the resident assessment 51763  
instrument specified in rules adopted by the department under 51764  
division (A) of section 5111.231 of the Revised Code. The 51765  
department or designated agency shall also use the criteria and 51766  
procedures established in rules adopted by the department under 51767  
division (I) of this section. Assessments may be performed only by 51768  
persons certified by the department under section 5101.752 of the 51769  
Revised Code. The department or designated agency shall make a 51770  
recommendation on the basis of the assessment and, not later than 51771  
the time the assessment is required to be performed under division 51772  
(D) of this section, give the person assessed written notice of 51773  
the recommendation, which shall explain the basis for the 51774  
recommendation. If the department or designated agency determines 51775  
pursuant to an assessment that an alternative source of long-term 51776  
care is more appropriate for the person than admission to the 51777  
facility to which the person has applied, the department or 51778  
designated agency shall include in the notice possible sources of 51779  
financial assistance for the alternative source of long-term care. 51780  
If the department or designated agency has been informed that the 51781  
person has a representative, it shall give the notice to the 51782  
representative. 51783

(C) A person is not required to be assessed under division	51784
(B) of this section if any of the following apply:	51785
(1) The circumstances specified by rules adopted under	51786
division (I) of this section exist.	51787
(2) The person is to receive care in a nursing facility under	51788
a contract for continuing care as defined in section 173.13 of the	51789
Revised Code.	51790
(3) The person has a contractual right to admission to a	51791
nursing facility operated as part of a system of continuing care	51792
in conjunction with one or more facilities that provide a less	51793
intensive level of services, including a residential care facility	51794
licensed under Chapter 3721. of the Revised Code, an adult-care	51795
facility licensed under Chapter 3722. of the Revised Code, or an	51796
independent living arrangement;	51797
(4) The person is to receive continual care in a home for the	51798
aged exempt from taxation under section 5701.13 of the Revised	51799
Code;	51800
(5) The person is to receive care in the nursing facility for	51801
not more than fourteen days in order to provide temporary relief	51802
to the person's primary caregiver and the nursing facility	51803
notifies the department of the person's admittance not later than	51804
twenty-four hours after admitting the person;	51805
(6) The person is to be transferred from another nursing	51806
facility, unless the nursing facility from which or to which the	51807
person is to be transferred determines that the person's medical	51808
condition has changed substantially since the person's admission	51809
to the nursing facility from which the person is to be transferred	51810
or a review is required by a third-party payment source;	51811
(7) The person is to be readmitted to a nursing facility	51812
following a period of hospitalization, unless the hospital or	51813

nursing facility determines that the person's medical condition 51814  
has changed substantially since the person's admission to the 51815  
hospital, or a review is required by a third-party payment source; 51816

(8) The department or designated agency fails to complete an 51817  
assessment within the time required by division (D) or (E) of this 51818  
section or determines after a partial assessment that the person 51819  
should be exempt from the assessment. 51820

(D) The department or designated agency shall perform a 51821  
complete assessment, or, if circumstances provided by rules 51822  
adopted under division (I) of this section exist, a partial 51823  
assessment, as follows: 51824

(1) In the case of a hospitalized person applying or 51825  
intending to apply to a nursing facility, not later than two 51826  
working days after the person or the person's representative is 51827  
notified that a bed is available in a nursing facility; 51828

(2) In the case of an emergency as determined in accordance 51829  
with rules adopted under division (I) of this section, not later 51830  
than one working day after the person or the person's 51831  
representative is notified that a bed is available in a nursing 51832  
facility; 51833

(3) In all other cases, not later than five calendar days 51834  
after the person or the person's representative who submits the 51835  
application is notified that a bed is available in a nursing 51836  
facility. 51837

(E) If the department or designated agency conducts a partial 51838  
assessment under division (D) of this section, it shall complete 51839  
the rest of the assessment not later than one hundred eighty days 51840  
after the date the person is admitted to the nursing facility 51841  
unless the assessment entity determines the person should be 51842  
exempt from the assessment. 51843

(F) A person assessed under this section or the person's 51844

representative may file a complaint with the department about the 51845  
assessment process. The department shall work to resolve the 51846  
complaint in accordance with rules adopted under division (I) of 51847  
this section. 51848

(G) A person is not required to seek an alternative source of 51849  
long-term care and may be admitted to or continue to reside in a 51850  
nursing facility even though an alternative source of long-term 51851  
care is available or the person is determined pursuant to an 51852  
assessment under this section not to need nursing facility 51853  
services. 51854

(H) No nursing facility ~~with~~ for which an operator has a 51855  
provider agreement with the department under section 5111.22 of 51856  
the Revised Code shall admit or retain any person, other than a 51857  
person exempt from the assessment requirement as provided by 51858  
division (C) of this section, as a resident unless the nursing 51859  
facility has received evidence that a complete or partial 51860  
assessment has been completed. 51861

(I) The director of job and family services shall adopt rules 51862  
in accordance with Chapter 119. of the Revised Code to implement 51863  
and administer this section. The rules shall include all of the 51864  
following: 51865

(1) The information a person being assessed or the person's 51866  
representative must provide to enable the department or designated 51867  
agency to do the assessment; 51868

(2) Criteria to be used to determine whether a person is in 51869  
need of nursing facility services; 51870

(3) Criteria to be used to determine whether an alternative 51871  
source of long-term care is appropriate for the person being 51872  
assessed; 51873

(4) Criteria and procedures to be used to determine a 51874  
person's physical, mental, and psychosocial needs; 51875

(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;	51876 51877 51878
(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;	51879 51880 51881
(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;	51882 51883 51884
(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;	51885 51886
(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.	51887 51888
(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:	51889 51890 51891 51892
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	51893 51894 51895
(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.	51896 51897 51898 51899
The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.	51900 51901 51902
<b>Sec. 5101.80.</b> (A) As used in this section and in section 5101.801 of the Revised Code:	51903 51904

(1) "County family services agency" has the same meaning as 51905  
in section 307.981 of the Revised Code. 51906

(2) "State agency" has the same meaning as in section 9.82 of 51907  
the Revised Code. 51908

(3) "Title IV-A program" means all of the following that are 51909  
funded in part with funds provided under the temporary assistance 51910  
for needy families block grant established by Title IV-A of the 51911  
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 51912  
amended: 51913

(a) The Ohio works first program established under Chapter 51914  
5107. of the Revised Code; 51915

(b) The prevention, retention, and contingency program 51916  
established under Chapter 5108. of the Revised Code; 51917

(c) A program established by the general assembly or an 51918  
executive order issued by the governor that is administered or 51919  
supervised by the department of job and family services pursuant 51920  
to section 5101.801 of the Revised Code; 51921

(d) A component of a Title IV-A program identified under 51922  
divisions (A)(3)(a) to (c) of this section that the Title IV-A 51923  
state plan prepared under division (C)(1) of this section 51924  
identifies as a component. 51925

(B) The department of job and family services shall act as 51926  
the single state agency to administer and supervise the 51927  
administration of Title IV-A programs. The Title IV-A state plan 51928  
and amendments to the plan prepared under division (C) of this 51929  
section are binding on county family services agencies and state 51930  
agencies that administer a Title IV-A program. No county family 51931  
services agency or state agency administering a Title IV-A program 51932  
may establish, by rule or otherwise, a policy governing the Title 51933  
IV-A program that is inconsistent with a Title IV-A program policy 51934

established, in rule or otherwise, by the director of job and family services. 51935  
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(C) The department of job and family services shall do all of the following: 51937  
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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; 51939  
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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; 51942  
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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; 51947  
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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; 51951  
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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; 51955  
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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; 51959  
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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 51963  
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Code, any sums appropriated by the general assembly for the 51965  
purpose of those chapters and section and all sums paid to the 51966  
state by the secretary of the treasury of the United States as 51967  
authorized by Title IV-A of the "Social Security Act," 110 Stat. 51968  
2113 (1996), 42 U.S.C. 601, as amended; 51969

(8) Conduct investigations and audits as are necessary 51970  
regarding Title IV-A programs; 51971

(9) Enter into reciprocal agreements with other states 51972  
relative to the provision of Ohio works first and prevention, 51973  
retention, and contingency to residents and nonresidents; 51974

(10) Contract with a private entity to conduct an independent 51975  
on-going evaluation of the Ohio works first program and the 51976  
prevention, retention, and contingency program. The contract must 51977  
require the private entity to do all of the following: 51978

(a) Examine issues of process, practice, impact, and 51979  
outcomes; 51980

(b) Study former participants of Ohio works first who have 51981  
not participated in Ohio works first for at least one year to 51982  
determine whether they are employed, the type of employment in 51983  
which they are engaged, the amount of compensation they are 51984  
receiving, whether their employer provides health insurance, 51985  
whether and how often they have received benefits or services 51986  
under the prevention, retention, and contingency program, and 51987  
whether they are successfully self sufficient; 51988

(c) Provide the department with reports at times the 51989  
department specifies. 51990

(11) Not later than January 1, 2001, and the first day of 51991  
each January and July thereafter, prepare a report containing 51992  
information on the following: 51993

(a) Individuals exhausting the time limits for participation 51994

in Ohio works first set forth in section 5107.18 of the Revised Code. 51995  
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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. 51997  
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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. 52000  
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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. 52010  
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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. 52014  
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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. 52021  
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Sec. 5101.83. (A) As used in this section: 52026

(1) "Assistance group" has the same meaning as in ~~sections~~ 52027  
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 52028  
also means a group provided benefits and services under the 52029  
prevention, retention, and contingency program ~~because the members~~ 52030  
~~of the group share a common need for benefits and services.~~ 52031

(2) "Fraudulent assistance" means assistance and service, 52032  
including cash assistance, provided under the Ohio works first 52033  
program established under Chapter 5107., or benefits and services 52034  
provided under the prevention, retention, and contingency program 52035  
established under Chapter 5108. of the Revised Code, to or on 52036  
behalf of an assistance group that is provided as a result of 52037  
fraud by a member of the assistance group, including an 52038  
intentional violation of the program's requirements. "Fraudulent 52039  
assistance" does not include assistance or services to or on 52040  
behalf of an assistance group that is provided as a result of an 52041  
error that is the fault of a county department of job and family 52042  
services or the state department of job and family services. 52043

(B) If a county director of job and family services 52044  
determines that an assistance group has received fraudulent 52045  
assistance, the assistance group is ineligible to participate in 52046  
the Ohio works first program or the prevention, retention, and 52047  
contingency program until a member of the assistance group repays 52048  
the cost of the fraudulent assistance. If a member repays the cost 52049  
of the fraudulent assistance and the assistance group otherwise 52050  
meets the eligibility requirements for the Ohio works first 52051  
program or the prevention, retention, and contingency program, the 52052  
assistance group shall not be denied the opportunity to 52053  
participate in the program. 52054

This section does not limit the ability of a county 52055  
department of job and family services to recover erroneous 52056

payments under section 5107.76 of the Revised Code. 52057

The state department of job and family services shall adopt 52058  
rules in accordance with Chapter 119. of the Revised Code to 52059  
implement this section. 52060

**Sec. 5101.97.** (A)(1) Not later than the ~~first~~ last day of 52061  
each July and January, the department of job and family services 52062  
shall complete a report on the characteristics of the individuals 52063  
who participate in or receive services through the programs 52064  
operated by the department and the outcomes of the individuals' 52065  
participation in or receipt of services through the programs. The 52066  
~~report reports shall be for the six-month periods ending on the~~ 52067  
last days of June and December and shall include information on 52068  
the following: 52069

(a) Work activities, developmental activities, and 52070  
alternative work activities established under sections 5107.40 to 52071  
5107.69 of the Revised Code; 52072

(b) Programs of publicly funded child day-care, as defined in 52073  
section 5104.01 of the Revised Code; 52074

(c) Child support enforcement programs; 52075

(d) Births to recipients of the medical assistance program 52076  
established under Chapter 5111. of the Revised Code. 52077

~~(2) Not later than the first day of each July, the department 52078  
shall complete a progress report on the partnership agreements 52079  
between the director of job and family services and boards of 52080  
county commissioners under section 5101.21 of the Revised Code. 52081  
The report shall include a review of whether the county family 52082  
services agencies and workforce development agencies satisfied 52083  
performance standards included in the agreements and whether the 52084  
department provided assistance, services, and technical support 52085  
specified in the agreements to aid the agencies in meeting the 52086~~

~~performance standards.~~ 52087

(3) The department shall submit the reports required under 52088  
~~divisions~~ division (A)(1) ~~and (2)~~ of this section to the speaker 52089  
and minority leader of the house of representatives, the president 52090  
and minority leader of the senate, the legislative budget officer, 52091  
the director of budget and management, and each board of county 52092  
commissioners. The department shall provide copies of ~~each report~~ 52093  
the reports to any person or government entity on request. 52094

In designing the format for ~~each report~~ the reports, the 52095  
department shall consult with individuals, organizations, and 52096  
government entities interested in the programs operated by the 52097  
department, so that the reports are designed to enable the general 52098  
assembly and the public to evaluate the effectiveness of the 52099  
programs and identify any needs that the programs are not meeting. 52100

(B) Whenever the federal government requires that the 52101  
department submit a report on a program that is operated by the 52102  
department or is otherwise under the department's jurisdiction, 52103  
the department shall prepare and submit the report in accordance 52104  
with the federal requirements applicable to that report. To the 52105  
extent possible, the department may coordinate the preparation and 52106  
submission of a particular report with any other report, plan, or 52107  
other document required to be submitted to the federal government, 52108  
as well as with any report required to be submitted to the general 52109  
assembly. The reports required by the Personal Responsibility and 52110  
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 52111  
submitted as an annual summary. 52112

**Sec. 5103.031.** (A) Except as provided in section 5103.033 of 52113  
the Revised Code, the department of job and family services may 52114  
not issue a certificate under section 5103.03 of the Revised Code 52115  
to a foster home unless the foster caregiver successfully 52116  
completes the following amount of preplacement training through 52117

~~the Ohio child welfare training program~~ or a preplacement training 52118  
program operated under section 5103.034 or 5153.60 of the Revised 52119  
Code: 52120

(1) If the foster home is a family foster home, at least 52121  
twelve hours; 52122

(2) If the foster home is a specialized foster home, at least 52123  
thirty-six hours. 52124

(B) No child may be placed in a family foster home unless the 52125  
foster caregiver completes at least twelve additional hours of 52126  
preplacement training through ~~the Ohio child welfare training~~ 52127  
~~program~~ or a preplacement training program operated under section 52128  
5103.034 or 5153.60 of the Revised Code. 52129

**Sec. 5103.033.** The department of job and family services may 52130  
issue or renew a certificate under section 5103.03 of the Revised 52131  
Code to a foster home for the care of a child who is in the 52132  
custody of a public children services agency or private child 52133  
placing agency pursuant to an agreement entered into under section 52134  
5103.15 of the Revised Code regarding a child who was less than 52135  
six months of age on the date the agreement was executed if the 52136  
foster caregiver successfully completes the following amount of 52137  
training: 52138

(A) For an initial certificate, at least twelve hours of 52139  
preplacement training through ~~the Ohio child welfare training~~ 52140  
~~program~~ or a preplacement training program operated under section 52141  
5103.034 or 5153.60 of the Revised Code; 52142

(B) For renewal of a certificate, at least twelve hours each 52143  
year of continuing training in accordance with the foster 52144  
caregiver's needs assessment and continuing training plan 52145  
developed and implemented under section 5103.035 of the Revised 52146  
Code. 52147

Sec. 5103.034. (A) A public children services agency, private 52148  
child placing agency, or private noncustodial agency operating a 52149  
preplacement training program or continuing training program 52150  
approved by the department of job and family services under 52151  
section 5103.038 of the Revised Code or the Ohio child welfare 52152  
training program operating a preplacement training program or 52153  
continuing training program pursuant to section 5153.60 of the 52154  
Revised Code shall make the program available to foster 52155  
caregivers. The agency or program shall make the programs 52156  
available without regard to the type of recommending agency from 52157  
which a foster caregiver seeks a recommendation and without charge 52158  
to the foster caregiver. 52159

(B) A private child placing agency or private noncustodial 52160  
agency operating a preplacement training program or continuing 52161  
training program approved by the department of job and family 52162  
services under section 5103.038 of the Revised Code may condition 52163  
the enrollment of a foster caregiver in a program on either or 52164  
both of the following: 52165

(1) Availability of space in the training program; 52166

(2) If applicable, payment of an instruction or registration 52167  
fee, if any, by the foster caregiver's recommending agency. 52168

(C) The Ohio child welfare training program operating a 52169  
preplacement training program or continuing training program 52170  
pursuant to section 5153.60 of the Revised Code may condition the 52171  
enrollment in a preplacement training program or continuing 52172  
training program of a foster caregiver whose recommending agency 52173  
is a private child placing agency or private noncustodial agency 52174  
on either or both of the following: 52175

(1) Availability of space in the training program; 52176

(2) Assignment to the program by the foster caregiver's 52177

recommending agency of the allowance payable under section 52178  
5103.0313 of the Revised Code. 52179

(D) A private child placing agency or private noncustodial 52180  
agency may contract with an individual or a public or private 52181  
entity to administer a preplacement training program or continuing 52182  
training program operated by the agency and approved by the 52183  
department of job and family services under section 5103.038 of 52184  
the Revised Code. 52185

**Sec. 5103.036.** For the purpose of determining whether a 52186  
foster caregiver has satisfied the requirement of section 5103.031 52187  
or 5103.032 of the Revised Code, a recommending agency shall 52188  
accept training obtained from ~~the Ohio child welfare training~~ 52189  
~~program or pursuant to~~ a preplacement training program or 52190  
continuing training program operated under section 5103.034 or 52191  
5153.60 of the Revised Code regardless of whether the program is 52192  
operated by the recommending agency ~~operated the preplacement~~ 52193  
~~training program or continuing training program.~~ The agency may 52194  
require that the foster caregiver successfully complete additional 52195  
training as a condition of the agency recommending that the 52196  
department of job and family services certify or recertify the 52197  
foster caregiver's foster home under section 5103.03 of the 52198  
Revised Code. 52199

**Sec. 5103.037.** The department of job and family services, in 52200  
consultation with the departments of youth services, mental 52201  
health, education, mental retardation and developmental 52202  
disabilities, and alcohol and drug addiction services, shall 52203  
develop a model design of a preplacement training program for 52204  
foster caregivers seeking an initial certificate under section 52205  
5103.03 of the Revised Code and a model design of a continuing 52206  
training program for foster caregivers seeking renewal of a 52207  
certificate under that section. The model design of a preplacement 52208

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 52241  
continuing training program if it complies with section 5103.0310 52242  
or 5103.0311 of the Revised Code, as appropriate, and, in the case 52243  
of a proposal submitted by an agency operating a continuing 52244  
training program at the time the proposal is submitted, the 52245  
department is satisfied with the agency's operation of the 52246  
program. ~~The department shall disapprove a proposed program if the 52247~~  
~~program's budget is not consistent with rules adopted under 52248~~  
~~section 5103.0316 of the Revised Code governing the department's 52249~~  
~~reimbursement of public children services agencies, private child 52250~~  
~~placing agencies, and private noncustodial agencies under section 52251~~  
~~5103.0313 of the Revised Code.~~ If the department disapproves a 52252  
proposal, it shall provide the reason for disapproval to the 52253  
agency that submitted the proposal and advise the agency of how to 52254  
revise the proposal so that the department can approve it. 52255

(C) The department's approval under division (B) of this 52256  
section of a proposed preplacement training program or continuing 52257  
training program is valid only for two years following the year 52258  
the proposal for the program is submitted to the department under 52259  
division (A) of this section. 52260

**Sec. 5103.0312.** A public children services agency, private 52261  
child placing agency, or private noncustodial agency acting as a 52262  
recommending agency for foster caregivers who hold certificates 52263  
issued under section 5103.03 of the Revised Code shall pay those 52264  
foster caregivers ~~who have had at least one foster child placed in 52265~~  
~~their home~~ a stipend to reimburse them for attending training 52266  
~~courses provided by the Ohio child welfare training program or 52267~~  
~~pursuant to~~ a preplacement training program or continuing training 52268  
program operated under section 5103.034 or 5153.60 of the Revised 52269  
Code. The payment shall be based on a stipend rate established by 52270  
the department of job and family services. The stipend rate shall 52271  
be the same regardless of the type of recommending agency from 52272

which a foster caregiver seeks a recommendation. The department 52273  
shall, pursuant to rules adopted under section 5103.0316 of the 52274  
Revised Code, reimburse the recommending agency for stipend 52275  
payments it makes in accordance with this section. 52276

**Sec. 5103.0313.** The department of job and family services 52277  
shall ~~reimburse the following~~ compensate a private child placing 52278  
agency or private noncustodial agency for the cost of ~~providing~~ 52279  
procuring or operating preplacement and continuing training ~~to~~ 52280  
~~foster caregivers:~~ 52281

~~(A) The Ohio child welfare training program;~~ 52282

~~(B) A public children services agency, private child placing~~ 52283  
~~agency, or private noncustodial agency through a preplacement~~ 52284  
~~training program or continuing training program operated~~ programs 52285  
under section 5103.034 of the Revised Code for foster caregivers 52286  
who are recommended for initial certification or recertification 52287  
by the agency. 52288

The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ 52289  
and limited to the cost associated with the trainer, ~~obtaining a~~ 52290  
~~site at which the training is provided, and the administration of~~ 52291  
the training paid to the agency in the form of an allowance for 52292  
each hour of preplacement and continuing training provided or 52293  
received. A reimbursement rate shall be the same regardless of 52294  
whether the training program is operated by the Ohio child welfare 52295  
training program or a public children services agency, private 52296  
child placing agency, or private noncustodial agency. 52297

**Sec. 5103.0314.** The department of job and family services 52298  
shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 52299  
~~of~~ any training the agency requires a foster caregiver to undergo 52300  
as a condition of the agency recommending the department certify 52301  
or recertify the foster caregiver's foster home under section 52302

5103.03 of the Revised Code if the training is in addition to the 52303  
minimum training required by section 5103.031 or 5103.032 of the 52304  
Revised Code. 52305

**Sec. 5103.0315.** The department of job and family services 52306  
shall seek federal financial participation for the cost of making 52307  
payments under section 5103.0312 of the Revised Code and 52308  
~~reimbursements~~ allowances under section 5103.0313 of the Revised 52309  
Code. The department shall notify the governor, president of the 52310  
senate, minority leader of the senate, speaker of the house of 52311  
representatives, and minority leader of the house of 52312  
representatives of any proposed federal legislation that endangers 52313  
the federal financial participation. 52314

**Sec. 5103.0316.** ~~Not later than ninety days after January 1,~~ 52315  
~~2001, the~~ The department of job and family services shall adopt 52316  
rules in accordance with Chapter 119. of the Revised Code as 52317  
necessary for the efficient administration of sections 5103.031 to 52318  
5103.0316 of the Revised Code. The rules shall provide for all of 52319  
the following: 52320

(A) For the purpose of section 5103.038 of the Revised Code, 52321  
the date by which a ~~public children services agency,~~ private child 52322  
placing agency~~,~~ or private noncustodial agency that seeks to 52323  
operate a preplacement training program or continuing training 52324  
program under section 5103.034 of the Revised Code must submit to 52325  
the department a proposal outlining the program; 52326

(B) Requirements governing the department's ~~reimbursement~~ 52327  
compensation of ~~the Ohio child welfare training program and public~~ 52328  
~~children services agencies,~~ private child placing agencies~~,~~ and 52329  
private noncustodial agencies under sections 5103.0312 and 52330  
5103.0313 of the Revised Code; 52331

(C) Any other matter the department considers appropriate. 52332

Sec. 5103.154. (A) Information concerning all children who 52333  
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 52334  
in the permanent custody of an institution or association 52335  
certified by the department of job and family services under 52336  
section 5103.03 of the Revised Code shall be listed with the 52337  
department within ninety days after permanent custody is 52338  
effective, unless the child has been placed for adoption or unless 52339  
an application for placement was initiated under section 5103.16 52340  
of the Revised Code. 52341

(B) All persons who wish to adopt children, and are approved 52342  
by an agency so empowered under this chapter, shall be listed with 52343  
the department within ninety days of approval, unless a person 52344  
requests in writing that that person's name not be so listed, or 52345  
has had a child placed in that person's home in preparation for 52346  
adoption, or has filed a petition for adoption. 52347

(C) All persons who wish to adopt a child with special needs 52348  
as defined in rules adopted under section 5153.163 of the Revised 52349  
Code, and who are approved by an agency so empowered under this 52350  
chapter, shall be listed separately by the department within 52351  
ninety days of approval, unless a person requests in writing that 52352  
that person's name not be so listed, or has had a child with 52353  
special needs placed in that person's home in preparation for 52354  
adoption, or has filed a petition for adoption. 52355

(D) The department shall forward information on such children 52356  
and listed persons at least quarterly, to all public children 52357  
services agencies and all certified agencies. 52358

(E) The appropriate listed names shall be removed when a 52359  
child is placed in an adoptive home or when a person withdraws an 52360  
application for adoption. 52361

(F) No later than six months after the end of each fiscal 52362

year, the department shall compile a report of its conclusions 52363  
regarding the effectiveness of its actions pursuant to this 52364  
section and of the restrictions on placement under division ~~(E)~~(G) 52365  
of section 5153.163 of the Revised Code in increasing adoptive 52366  
placements of children with special needs, together with its 52367  
recommendations, and shall submit a copy of the report to the 52368  
chairpersons of the principal committees of the senate and the 52369  
house of representatives who consider welfare legislation. 52370

Sec. 5103.155. As used in this section, "children with 52371  
special needs" has the same meaning as in rules adopted under 52372  
section 5153.163 of the Revised Code. 52373

If the department of job and family services determines that 52374  
money in the putative father registry fund created under section 52375  
2101.16 of the Revised Code is more than is needed to perform its 52376  
duties related to the putative father registry, the department may 52377  
use surplus moneys in the fund to promote adoption of children 52378  
with special needs. 52379

**Sec. 5104.01.** As used in this chapter: 52380

(A) "Administrator" means the person responsible for the 52381  
daily operation of a center or type A home. The administrator and 52382  
the owner may be the same person. 52383

(B) "Approved child day camp" means a child day camp approved 52384  
pursuant to section 5104.22 of the Revised Code. 52385

(C) "Authorized provider" means a person authorized by a 52386  
county director of job and family services to operate a certified 52387  
type B family day-care home. 52388

(D) "Border state child day-care provider" means a child 52389  
day-care provider that is located in a state bordering Ohio and 52390  
that is licensed, certified, or otherwise approved by that state 52391  
to provide child day-care. 52392

(E) "Caretaker parent" means the father or mother of a child 52393  
whose presence in the home is needed as the caretaker of the 52394  
child, a person who has legal custody of a child and whose 52395  
presence in the home is needed as the caretaker of the child, a 52396  
guardian of a child whose presence in the home is needed as the 52397  
caretaker of the child, and any other person who stands in loco 52398  
parentis with respect to the child and whose presence in the home 52399  
is needed as the caretaker of the child. 52400

(F) "Certified type B family day-care home" and "certified 52401  
type B home" mean a type B family day-care home that is certified 52402  
by the director of the county department of job and family 52403  
services pursuant to section 5104.11 of the Revised Code to 52404  
receive public funds for providing child day-care pursuant to this 52405  
chapter and any rules adopted under it. 52406

(G) "Chartered nonpublic school" means a school that meets 52407  
standards for nonpublic schools prescribed by the state board of 52408  
education for nonpublic schools pursuant to section 3301.07 of the 52409  
Revised Code. 52410

(H) "Child" includes an infant, toddler, preschool child, or 52411  
school child. 52412

(I) "Child care block grant act" means the "Child Care and 52413  
Development Block Grant Act of 1990," established in section 5082 52414  
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 52415  
1388-236 (1990), 42 U.S.C. 9858, as amended. 52416

(J) "Child day camp" means a program in which only school 52417  
children attend or participate, that operates for no more than 52418  
seven hours per day, that operates only during one or more public 52419  
school district's regular vacation periods or for no more than 52420  
fifteen weeks during the summer, and that operates outdoor 52421  
activities for each child who attends or participates in the 52422  
program for a minimum of fifty per cent of each day that children 52423

attend or participate in the program, except for any day when 52424  
hazardous weather conditions prevent the program from operating 52425  
outdoor activities for a minimum of fifty per cent of that day. 52426  
For purposes of this division, the maximum seven hours of 52427  
operation time does not include transportation time from a child's 52428  
home to a child day camp and from a child day camp to a child's 52429  
home. 52430

(K) "Child day-care" means administering to the needs of 52431  
infants, toddlers, preschool children, and school children outside 52432  
of school hours by persons other than their parents or guardians, 52433  
custodians, or relatives by blood, marriage, or adoption for any 52434  
part of the twenty-four-hour day in a place or residence other 52435  
than a child's own home. 52436

(L) "Child day-care center" and "center" mean any place in 52437  
which child day-care or publicly funded child day-care is provided 52438  
for thirteen or more children at one time or any place that is not 52439  
the permanent residence of the licensee or administrator in which 52440  
child day-care or publicly funded child day-care is provided for 52441  
seven to twelve children at one time. In counting children for the 52442  
purposes of this division, any children under six years of age who 52443  
are related to a licensee, administrator, or employee and who are 52444  
on the premises of the center shall be counted. "Child day-care 52445  
center" and "center" do not include any of the following: 52446

(1) A place located in and operated by a hospital, as defined 52447  
in section 3727.01 of the Revised Code, in which the needs of 52448  
children are administered to, if all the children whose needs are 52449  
being administered to are monitored under the on-site supervision 52450  
of a physician licensed under Chapter 4731. of the Revised Code or 52451  
a registered nurse licensed under Chapter 4723. of the Revised 52452  
Code, and the services are provided only for children who, in the 52453  
opinion of the child's parent, guardian, or custodian, are 52454  
exhibiting symptoms of a communicable disease or other illness or 52455

are injured;	52456
(2) A child day camp;	52457
(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:	52458 52459
(a) An organized religious body provides the child day-care;	52460
(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;	52461 52462 52463
(c) The child day-care is not provided for more than thirty days a year;	52464 52465
(d) The child day-care is provided only for preschool and school children.	52466 52467
(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.	52468 52469 52470 52471
(N) "Child day-care resource and referral services" means all of the following services:	52472 52473
(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;	52474 52475 52476
(2) Provision of individualized consumer education to families seeking child day-care;	52477 52478
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	52479 52480
(4) Recruitment of child day-care providers;	52481
(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	52482 52483 52484

providers, employers, and the community;	52485
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	52486 52487
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	52488 52489 52490
(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;	52491 52492 52493
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	52494 52495
(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;	52496 52497 52498 52499 52500
(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.	52501 52502 52503 52504
(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.	52505 52506 52507 52508 52509
(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.	52510 52511 52512 52513 52514

(Q) "Employee" means a person who either:	52515
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	52516 52517
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	52518 52519
(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.	52520 52521 52522 52523
(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.	52524 52525 52526 52527 52528
(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 <del>section</del> <u>sections</u> 3301.31 to <u>3301.37</u> of the Revised Code.	52529 52530 52531 52532 52533
(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.	52534 52535 52536
(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.	52537 52538 52539 52540 52541 52542
(W) "Infant" means a child who is less than eighteen months of age.	52543 52544

(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. 52576  
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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. 52578  
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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. 52591  
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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. 52596  
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(HH) "Preschool child" means a child who is three years old or older but is not a school child. 52600  
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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: 52602  
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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 52605  
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for protective day-care and the child resides with a parent, 52607  
stepparent, guardian, or another person who stands in loco 52608  
parentis as defined in rules adopted under section 5104.38 of the 52609  
Revised Code; 52610

(2) The child and the child's caretaker either temporarily 52611  
reside in a facility providing emergency shelter for homeless 52612  
families or are determined by the county department of job and 52613  
family services to be homeless, and are otherwise ineligible for 52614  
publicly funded child day-care. 52615

(JJ) "Publicly funded child day-care" means administering to 52616  
the needs of infants, toddlers, preschool children, and school 52617  
children under age thirteen during any part of the 52618  
twenty-four-hour day by persons other than their caretaker parents 52619  
for remuneration wholly or in part with federal or state funds, 52620  
including funds available under the child care block grant act 52621  
~~funds~~ Title IV-A, and Title XX, distributed by the department of 52622  
job and family services. 52623

(KK) "Religious activities" means any of the following: 52624  
worship or other religious services; religious instruction; Sunday 52625  
school classes or other religious classes conducted during or 52626  
prior to worship or other religious services; youth or adult 52627  
fellowship activities; choir or other musical group practices or 52628  
programs; meals; festivals; or meetings conducted by an organized 52629  
religious group. 52630

(LL) "School child" means a child who is enrolled in or is 52631  
eligible to be enrolled in a grade of kindergarten or above but is 52632  
less than fifteen years old. 52633

(MM) "School child day-care center," "school child center," 52634  
"school child type A family day-care home," and "school child type 52635  
A family home" mean a center or type A home that provides child 52636  
day-care for school children only and that does either or both of 52637

the following: 52638

(1) Operates only during that part of the day that 52639  
immediately precedes or follows the public school day of the 52640  
school district in which the center or type A home is located; 52641

(2) Operates only when the public schools in the school 52642  
district in which the center or type A home is located are not 52643  
open for instruction with pupils in attendance. 52644

(NN) "State median income" means the state median income 52645  
calculated by the department of development pursuant to division 52646  
(A)(1)(g) of section 5709.61 of the Revised Code. 52647

(OO) "Title IV-A" means Title IV-A of the "Social Security 52648  
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 52649

(PP) "Title XX" means Title XX of the "Social Security Act," 52650  
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 52651

(OO) "Toddler" means a child who is at least eighteen months 52652  
of age but less than three years of age. 52653

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean 52654  
a permanent residence of the administrator in which child day-care 52655  
or publicly funded child day-care is provided for seven to twelve 52656  
children at one time or a permanent residence of the administrator 52657  
in which child day-care is provided for four to twelve children at 52658  
one time if four or more children at one time are under two years 52659  
of age. In counting children for the purposes of this division, 52660  
any children under six years of age who are related to a licensee, 52661  
administrator, or employee and who are on the premises of the type 52662  
A home shall be counted. "Type A family day-care home" does not 52663  
include a residence in which the needs of children are 52664  
administered to, if all of the children whose needs are being 52665  
administered to are siblings of the same immediate family and the 52666  
residence is the home of the siblings. "Type A family day-care 52667  
home" and "type A home" do not include any child day camp. 52668

~~(SS)~~(SS) "Type B family day-care home" and "type B home" mean 52669  
a permanent residence of the provider in which child day-care is 52670  
provided for one to six children at one time and in which no more 52671  
than three children are under two years of age at one time. In 52672  
counting children for the purposes of this division, any children 52673  
under six years of age who are related to the provider and who are 52674  
on the premises of the type B home shall be counted. "Type B 52675  
family day-care home" does not include a residence in which the 52676  
needs of children are administered to, if all of the children 52677  
whose needs are being administered to are siblings of the same 52678  
immediate family and the residence is the home of the siblings. 52679  
"Type B family day-care home" and "type B home" do not include any 52680  
child day camp. 52681

**Sec. 5104.011.** (A) The director of job and family services 52682  
shall adopt rules pursuant to Chapter 119. of the Revised Code 52683  
governing the operation of child day-care centers, including, but 52684  
not limited to, parent cooperative centers, part-time centers, 52685  
drop-in centers, and school child centers, which rules shall 52686  
reflect the various forms of child day-care and the needs of 52687  
children receiving child day-care or publicly funded child 52688  
day-care and, ~~no later than January 1, 1992,~~ shall include 52689  
specific rules for school child day-care centers that are 52690  
developed in consultation with the department of education. The 52691  
rules shall not require an existing school facility that is in 52692  
compliance with applicable building codes to undergo an additional 52693  
building code inspection or to have structural modifications. The 52694  
rules shall include the following: 52695

(1) Submission of a site plan and descriptive plan of 52696  
operation to demonstrate how the center proposes to meet the 52697  
requirements of this chapter and rules adopted pursuant to this 52698  
chapter for the initial license application; 52699

(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;	52731
(8) Procedures for record keeping, organization, and administration;	52732 52733
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	52734 52735 52736
(10) Inspection procedures;	52737
(11) Procedures and standards for setting initial and renewal license application fees;	52738 52739
(12) Procedures for receiving, recording, and responding to complaints about centers;	52740 52741
(13) Procedures for enforcing section 5104.04 of the Revised Code;	52742 52743
(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;	52744 52745 52746 52747 52748
(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.	52749 52750 52751 52752 52753 52754
(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;	52755 52756 52757 52758
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions	52759 52760

while the child is receiving child day-care or publicly funded 52761  
child day-care in the center; 52762

(18) Any other procedures and standards necessary to carry 52763  
out this chapter. 52764

(B)(1) The child day-care center shall have, for each child 52765  
for whom the center is licensed, at least thirty-five square feet 52766  
of usable indoor floor space wall-to-wall regularly available for 52767  
the child day-care operation exclusive of any parts of the 52768  
structure in which the care of children is prohibited by law or by 52769  
rules adopted by the board of building standards. The minimum of 52770  
thirty-five square feet of usable indoor floor space shall not 52771  
include hallways, kitchens, storage areas, or any other areas that 52772  
are not available for the care of children, as determined by the 52773  
director, in meeting the space requirement of this division, and 52774  
bathrooms shall be counted in determining square footage only if 52775  
they are used exclusively by children enrolled in the center, 52776  
except that the exclusion of hallways, kitchens, storage areas, 52777  
bathrooms not used exclusively by children enrolled in the center, 52778  
and any other areas not available for the care of children from 52779  
the minimum of thirty-five square feet of usable indoor floor 52780  
space shall not apply to: 52781

(a) Centers licensed prior to or on September 1, 1986, that 52782  
continue under licensure after that date; 52783

(b) Centers licensed prior to or on September 1, 1986, that 52784  
are issued a new license after that date solely due to a change of 52785  
ownership of the center. 52786

(2) The child day-care center shall have on the site a safe 52787  
outdoor play space which is enclosed by a fence or otherwise 52788  
protected from traffic or other hazards. The play space shall 52789  
contain not less than sixty square feet per child using such space 52790  
at any one time, and shall provide an opportunity for supervised 52791

outdoor play each day in suitable weather. The director may exempt 52792  
a center from the requirement of this division, if an outdoor play 52793  
space is not available and if all of the following are met: 52794

(a) The center provides an indoor recreation area that has 52795  
not less than sixty square feet per child using the space at any 52796  
one time, that has a minimum of one thousand four hundred forty 52797  
square feet of space, and that is separate from the indoor space 52798  
required under division (B)(1) of this section. 52799

(b) The director has determined that there is regularly 52800  
available and scheduled for use a conveniently accessible and safe 52801  
park, playground, or similar outdoor play area for play or 52802  
recreation. 52803

(c) The children are closely supervised during play and while 52804  
traveling to and from the area. 52805

The director also shall exempt from the requirement of this 52806  
division a child day-care center that was licensed prior to 52807  
September 1, 1986, if the center received approval from the 52808  
director prior to September 1, 1986, to use a park, playground, or 52809  
similar area, not connected with the center, for play or 52810  
recreation in lieu of the outdoor space requirements of this 52811  
section and if the children are closely supervised both during 52812  
play and while traveling to and from the area and except if the 52813  
director determines upon investigation and inspection pursuant to 52814  
section 5104.04 of the Revised Code and rules adopted pursuant to 52815  
that section that the park, playground, or similar area, as well 52816  
as access to and from the area, is unsafe for the children. 52817

(3) The child day-care center shall have at least two 52818  
responsible adults available on the premises at all times when 52819  
seven or more children are in the center. The center shall 52820  
organize the children in the center in small groups, shall provide 52821  
child-care staff to give continuity of care and supervision to the 52822

children on a day-by-day basis, and shall ensure that no child is			52823
left alone or unsupervised. Except as otherwise provided in			52824
division (E) of this section, the maximum number of children per			52825
child-care staff member and maximum group size, by age category of			52826
children, are as follows:			52827
	Maximum Number of		52828
	Children Per	Maximum	52829
Age Category	Child-Care	Group	52830
of Children	Staff Member	Size	52831
(a) Infants:			52832
(i) Less than twelve			52833
months old	5:1, or		52834
	12:2 if two		52835
	child-care		52836
	staff members		52837
	are in the room	12	52838
(ii) At least twelve			52839
months old, but			52840
less than eighteen			52841
months old	6:1	12	52842
(b) Toddlers:			52843
(i) At least eighteen			52844
months old, but			52845
less than thirty			52846
months old	7:1	14	52847
(ii) At least thirty months			52848
old, but less than			52849
three years old	8:1	16	52850
(c) Preschool			52851
children:			52852
(i) Three years old	12:1	24	52853
(ii) Four years old and			52854
five years old who			52855

are not school			52856
children	14:1	28	52857
(d) School children:			52858
(i) A child who is			52859
enrolled in or is			52860
eligible to be			52861
enrolled in a grade			52862
of kindergarten			52863
or above, but			52864
is less than			52865
eleven years old	18:1	36	52866
(ii) Eleven through fourteen			52867
years old	20:1	40	52868
Except as otherwise provided in division (E) of this section,			52869
the maximum number of children per child-care staff member and			52870
maximum group size requirements of the younger age group shall			52871
apply when age groups are combined.			52872
(4)(a) The child day-care center administrator shall show the			52873
director both of the following:			52874
(i) Evidence of at least high school graduation or			52875
certification of high school equivalency by the state board of			52876
education or the appropriate agency of another state;			52877
(ii) Evidence of having completed at least two years of			52878
training in an accredited college, university, or technical			52879
college, including courses in child development or early childhood			52880
education, or at least two years of experience in supervising and			52881
giving daily care to children attending an organized group			52882
program.			52883
(b) In addition to the requirements of division (B)(4)(a) of			52884
this section, any administrator employed or designated on or after			52885
September 1, 1986, shall show evidence of, and any administrator			52886

employed or designated prior to September 1, 1986, shall show 52887  
evidence within six years after such date of, at least one of the 52888  
following: 52889

(i) Two years of experience working as a child-care staff 52890  
member in a center and at least four courses in child development 52891  
or early childhood education from an accredited college, 52892  
university, or technical college, except that a person who has two 52893  
years of experience working as a child-care staff member in a 52894  
particular center and who has been promoted to or designated as 52895  
administrator of that center shall have one year from the time the 52896  
person was promoted to or designated as administrator to complete 52897  
the required four courses; 52898

(ii) Two years of training, including at least four courses 52899  
in child development or early childhood education from an 52900  
accredited college, university, or technical college; 52901

(iii) A child development associate credential issued by the 52902  
national child development associate credentialing commission; 52903

(iv) An associate or higher degree in child development or 52904  
early childhood education from an accredited college, technical 52905  
college, or university, or a license designated for teaching in an 52906  
associate teaching position in a preschool setting issued by the 52907  
state board of education. 52908

(5) All child-care staff members of a child day-care center 52909  
shall be at least eighteen years of age, and shall furnish the 52910  
director evidence of at least high school graduation or 52911  
certification of high school equivalency by the state board of 52912  
education or the appropriate agency of another state or evidence 52913  
of completion of a training program approved by the department of 52914  
job and family services or state board of education, except as 52915  
follows: 52916

(a) A child-care staff member may be less than eighteen years 52917

of age if the staff member is either of the following: 52918

(i) A graduate of a two-year vocational child-care training 52919  
program approved by the state board of education; 52920

(ii) A student enrolled in the second year of a vocational 52921  
child-care training program approved by the state board of 52922  
education which leads to high school graduation, provided that the 52923  
student performs the student's duties in the child day-care center 52924  
under the continuous supervision of an experienced child-care 52925  
staff member, receives periodic supervision from the vocational 52926  
child-care training program teacher-coordinator in the student's 52927  
high school, and meets all other requirements of this chapter and 52928  
rules adopted pursuant to this chapter. 52929

(b) A child-care staff member shall be exempt from the 52930  
educational requirements of this division if the staff member: 52931

(i) Prior to January 1, 1972, was employed or designated by a 52932  
child day-care center and has been continuously employed since 52933  
either by the same child day-care center employer or at the same 52934  
child day-care center; or 52935

(ii) Is a student enrolled in the second year of a vocational 52936  
child-care training program approved by the state board of 52937  
education which leads to high school graduation, provided that the 52938  
student performs the student's duties in the child day-care center 52939  
under the continuous supervision of an experienced child-care 52940  
staff member, receives periodic supervision from the vocational 52941  
child-care training program teacher-coordinator in the student's 52942  
high school, and meets all other requirements of this chapter and 52943  
rules adopted pursuant to this chapter. 52944

(6) Every child day-care staff member of a child day-care 52945  
center annually shall complete fifteen hours of inservice training 52946  
in child development or early childhood education, child abuse 52947  
recognition and prevention, first aid, and in prevention, 52948

recognition, and management of communicable diseases, until a 52949  
total of forty-five hours of training has been completed, unless 52950  
the staff member furnishes one of the following to the director: 52951

(a) Evidence of an associate or higher degree in child 52952  
development or early childhood education from an accredited 52953  
college, university, or technical college; 52954

(b) A license designated for teaching in an associate 52955  
teaching position in a preschool setting issued by the state board 52956  
of education; 52957

(c) Evidence of a child development associate credential; 52958

(d) Evidence of a preprimary credential from the American 52959  
Montessori society or the association Montessori international. 52960  
For the purposes of division (B)(6) of this section, "hour" means 52961  
sixty minutes. 52962

(7) The administrator of each child day-care center shall 52963  
prepare at least once annually and for each group of children at 52964  
the center a roster of names and telephone numbers of parents, 52965  
custodians, or guardians of each group of children attending the 52966  
center and upon request shall furnish the roster for each group to 52967  
the parents, custodians, or guardians of the children in that 52968  
group. The administrator may prepare a roster of names and 52969  
telephone numbers of all parents, custodians, or guardians of 52970  
children attending the center and upon request shall furnish the 52971  
roster to the parents, custodians, or guardians of the children 52972  
who attend the center. The administrator shall not include in any 52973  
roster the name or telephone number of any parent, custodian, or 52974  
guardian who requests the administrator not to include the 52975  
parent's, custodian's, or guardian's name or number and shall not 52976  
furnish any roster to any person other than a parent, custodian, 52977  
or guardian of a child who attends the center. 52978

(C)(1) Each child day-care center shall have on the center 52979

premises and readily available at all times at least one 52980  
child-care staff member who has completed a course in first aid 52981  
and in prevention, recognition, and management of communicable 52982  
diseases which is approved by the state department of health and a 52983  
staff member who has completed a course in child abuse recognition 52984  
and prevention training which is approved by the department of job 52985  
and family services. 52986

(2) The administrator of each child day-care center shall 52987  
maintain enrollment, health, and attendance records for all 52988  
children attending the center and health and employment records 52989  
for all center employees. The records shall be confidential, 52990  
except as otherwise provided in division (B)(7) of this section 52991  
and except that they shall be disclosed by the administrator to 52992  
the director upon request for the purpose of administering and 52993  
enforcing this chapter and rules adopted pursuant to this chapter. 52994  
Neither the center nor the licensee, administrator, or employees 52995  
of the center shall be civilly or criminally liable in damages or 52996  
otherwise for records disclosed to the director by the 52997  
administrator pursuant to this division. It shall be a defense to 52998  
any civil or criminal charge based upon records disclosed by the 52999  
administrator to the director that the records were disclosed 53000  
pursuant to this division. 53001

(3)(a) Any parent who is the residential parent and legal 53002  
custodian of a child enrolled in a child day-care center and any 53003  
custodian or guardian of such a child shall be permitted unlimited 53004  
access to the center during its hours of operation for the 53005  
purposes of contacting their children, evaluating the care 53006  
provided by the center, evaluating the premises of the center, or 53007  
for other purposes approved by the director. A parent of a child 53008  
enrolled in a child day-care center who is not the child's 53009  
residential parent shall be permitted unlimited access to the 53010  
center during its hours of operation for those purposes under the 53011

same terms and conditions under which the residential parent of 53012  
that child is permitted access to the center for those purposes. 53013  
However, the access of the parent who is not the residential 53014  
parent is subject to any agreement between the parents and, to the 53015  
extent described in division (C)(3)(b) of this section, is subject 53016  
to any terms and conditions limiting the right of access of the 53017  
parent who is not the residential parent, as described in division 53018  
(I) of section 3109.051 of the Revised Code, that are contained in 53019  
a parenting time order or decree issued under that section, 53020  
section 3109.12 of the Revised Code, or any other provision of the 53021  
Revised Code. 53022

(b) If a parent who is the residential parent of a child has 53023  
presented the administrator or the administrator's designee with a 53024  
copy of a parenting time order that limits the terms and 53025  
conditions under which the parent who is not the residential 53026  
parent is to have access to the center, as described in division 53027  
(I) of section 3109.051 of the Revised Code, the parent who is not 53028  
the residential parent shall be provided access to the center only 53029  
to the extent authorized in the order. If the residential parent 53030  
has presented such an order, the parent who is not the residential 53031  
parent shall be permitted access to the center only in accordance 53032  
with the most recent order that has been presented to the 53033  
administrator or the administrator's designee by the residential 53034  
parent or the parent who is not the residential parent. 53035

(c) Upon entering the premises pursuant to division (C)(3)(a) 53036  
or (b) of this section, the parent who is the residential parent 53037  
and legal custodian, the parent who is not the residential parent, 53038  
or the custodian or guardian shall notify the administrator or the 53039  
administrator's designee of the parent's, custodian's, or 53040  
guardian's presence. 53041

(D) The director of job and family services, in addition to 53042  
the rules adopted under division (A) of this section, shall adopt 53043

rules establishing minimum requirements for child day-care 53044  
centers. The rules shall include, but not be limited to, the 53045  
requirements set forth in divisions (B) and (C) of this section. 53046  
Except as provided in section 5104.07 of the Revised Code, the 53047  
rules shall not change the square footage requirements of division 53048  
(B)(1) or (2) of this section; the maximum number of children per 53049  
child-care staff member and maximum group size requirements of 53050  
division (B)(3) of this section; the educational and experience 53051  
requirements of division (B)(4) of this section; the age, 53052  
educational, and experience requirements of division (B)(5) of 53053  
this section; the number of inservice training hours required 53054  
under division (B)(6) of this section; or the requirement for at 53055  
least annual preparation of a roster for each group of children of 53056  
names and telephone numbers of parents, custodians, or guardians 53057  
of each group of children attending the center that must be 53058  
furnished upon request to any parent, custodian, or guardian of 53059  
any child in that group required under division (B)(7) of this 53060  
section; however, the rules shall provide procedures for 53061  
determining compliance with those requirements. 53062

(E)(1) When age groups are combined, the maximum number of 53063  
children per child-care staff member shall be determined by the 53064  
age of the youngest child in the group, except that when no more 53065  
than one child thirty months of age or older receives services in 53066  
a group in which all the other children are in the next older age 53067  
group, the maximum number of children per child-care staff member 53068  
and maximum group size requirements of the older age group 53069  
established under division (B)(3) of this section shall apply. 53070

(2) The maximum number of toddlers or preschool children per 53071  
child-care staff member in a room where children are napping shall 53072  
be twice the maximum number of children per child-care staff 53073  
member established under division (B)(3) of this section if all 53074  
the following criteria are met: 53075

(a) At least one child-care staff member is present in the room.	53076 53077
(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.	53078 53079 53080 53081
(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.	53082 53083
(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.	53084 53085 53086
(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:	53087 53088 53089 53090 53091 53092 53093 53094
(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;	53095 53096 53097 53098
(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;	53099 53100 53101 53102
(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;	53103 53104 53105

(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;	53106 53107 53108 53109 53110 53111
(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;	53112 53113 53114 53115 53116 53117 53118 53119
(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;	53120 53121 53122 53123
(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;	53124 53125 53126
(8) Procedures for record keeping, organization, and administration;	53127 53128
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	53129 53130 53131
(10) Inspection procedures;	53132
(11) Procedures and standards for setting initial and renewal license application fees;	53133 53134
(12) Procedures for receiving, recording, and responding to	53135

complaints about type A homes;	53136
(13) Procedures for enforcing section 5104.04 of the Revised Code;	53137 53138
(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;	53139 53140 53141 53142 53143 53144
(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;	53145 53146 53147 53148
(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;	53149 53150 53151 53152
(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;	53153 53154 53155 53156
(18) Standards for the maximum number of children per child-care staff member;	53157 53158
(19) Requirements for the amount of usable indoor floor space for each child;	53159 53160
(20) Requirements for safe outdoor play space;	53161
(21) Qualifications and training requirements for administrators and for child-care staff members;	53162 53163
(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to	53164 53165

the type A home during its hours of operation; 53166

(23) Standards for the preparation and distribution of a 53167  
roster of parents, custodians, and guardians; 53168

(24) Any other procedures and standards necessary to carry 53169  
out this chapter. 53170

(G) The director of job and family services shall adopt rules 53171  
pursuant to Chapter 119. of the Revised Code governing the 53172  
certification of type B family day-care homes. 53173

(1) The rules shall include procedures, standards, and other 53174  
necessary provisions for granting limited certification to type B 53175  
family day-care homes that are operated by the following adult 53176  
providers: 53177

(a) Persons who provide child day-care for eligible children 53178  
who are great-grandchildren, grandchildren, nieces, nephews, or 53179  
siblings of the provider or for eligible children whose caretaker 53180  
parent is a grandchild, child, niece, nephew, or sibling of the 53181  
provider; 53182

(b) Persons who provide child day-care for eligible children 53183  
all of whom are the children of the same caretaker parent. 53184

The rules shall require, and shall include procedures for the 53185  
director to ensure, that type B family day-care homes that receive 53186  
a limited certification provide child day-care to children in a 53187  
safe and sanitary manner. With regard to providers who apply for 53188  
limited certification, a provider shall be granted a provisional 53189  
limited certification on signing a declaration under oath 53190  
attesting that the provider meets the standards for limited 53191  
certification. Such provisional limited certifications shall 53192  
remain in effect for no more than sixty calendar days and shall 53193  
entitle the provider to offer publicly funded child day-care 53194  
during the provisional period. Except as otherwise provided in 53195  
division (G)(1) of this section, prior to the expiration of the 53196

provisional limited certificate, a county department of job and 53197  
family services shall inspect the home and shall grant limited 53198  
certification to the provider if the provider meets the 53199  
requirements of this division. Limited certificates remain valid 53200  
for two years unless earlier revoked. Except as otherwise provided 53201  
in division (G)(1) of this section, providers operating under 53202  
limited certification shall be inspected annually. 53203

If a provider is a person described in division (G)(1)(a) of 53204  
this section or a person described in division (G)(1)(b) of this 53205  
section who is a friend of the caretaker parent, the provider and 53206  
the caretaker parent may verify in writing to the county 53207  
department of job and family services that minimum health and 53208  
safety requirements are being met in the home. If such 53209  
verification is provided, the county shall waive any inspection 53210  
and any criminal records check required by this chapter and grant 53211  
limited certification to the provider. 53212

(2) The rules shall provide for safeguarding the health, 53213  
safety, and welfare of children receiving child day-care or 53214  
publicly funded child day-care in a certified type B home and 53215  
shall include the following: 53216

(a) Standards for ensuring that the type B home and the 53217  
physical surroundings of the type B home are safe and sanitary, 53218  
including, but not limited to, physical environment, physical 53219  
plant, and equipment; 53220

(b) Standards for the supervision, care, and discipline of 53221  
children receiving child day-care or publicly funded child 53222  
day-care in the home; 53223

(c) Standards for a program of activities, and for play 53224  
equipment, materials, and supplies to enhance the development of 53225  
each child; however, any educational curricula, philosophies, and 53226  
methodologies that are developmentally appropriate and that 53227

enhance the social, emotional, intellectual, and physical	53228
development of each child shall be permissible;	53229
(d) Admission policies and procedures, health care, first aid	53230
and emergency procedures, procedures for the care of sick	53231
children, procedures for discipline and supervision of children,	53232
nutritional standards, and procedures for screening children and	53233
authorized providers, including, but not limited to, any necessary	53234
physical examinations and immunizations;	53235
(e) Methods of encouraging parental participation and	53236
ensuring that the rights of children, parents, and authorized	53237
providers are protected and the responsibilities of parents and	53238
authorized providers are met;	53239
(f) Standards for the safe transport of children when under	53240
the care of authorized providers;	53241
(g) Procedures for issuing, renewing, denying, refusing to	53242
renew, or revoking certificates;	53243
(h) Procedures for the inspection of type B family day-care	53244
homes that require, at a minimum, that each type B family day-care	53245
home be inspected prior to certification to ensure that the home	53246
is safe and sanitary;	53247
(i) Procedures for record keeping and evaluation;	53248
(j) Procedures for receiving, recording, and responding to	53249
complaints;	53250
(k) Standards providing for the special needs of children who	53251
are handicapped or who receive treatment for health conditions	53252
while the child is receiving child day-care or publicly funded	53253
child day-care in the type B home;	53254
(l) Requirements for the amount of usable indoor floor space	53255
for each child;	53256
(m) Requirements for safe outdoor play space;	53257

(n) Qualification and training requirements for authorized providers;	53258 53259
(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;	53260 53261 53262
(p) Any other procedures and standards necessary to carry out this chapter.	53263 53264
(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:	53265 53266 53267 53268 53269 53270 53271 53272 53273 53274 53275 53276 53277 53278 53279
(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;	53280 53281 53282 53283
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;	53284 53285 53286
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of	53287 53288

each child; however, any educational curricula, philosophies, and 53289  
methodologies that are developmentally appropriate and that 53290  
enhance the social, emotional, intellectual, and physical 53291  
development of each child shall be permissible; 53292

(4) Health care, first aid, and emergency procedures, 53293  
procedures for the care of sick children, procedures for 53294  
discipline and supervision of children, nutritional standards, and 53295  
procedures for screening children and in-home aides, including, 53296  
but not limited to, any necessary physical examinations and 53297  
immunizations; 53298

(5) Methods of encouraging parental participation and 53299  
ensuring that the rights of children, parents, and in-home aides 53300  
are protected and the responsibilities of parents and in-home 53301  
aides are met; 53302

(6) Standards for the safe transport of children when under 53303  
the care of in-home aides; 53304

(7) Procedures for issuing, renewing, denying, refusing to 53305  
renew, or revoking certificates; 53306

(8) Procedures for inspection of homes of children receiving 53307  
publicly funded child day-care in their own homes; 53308

(9) Procedures for record keeping and evaluation; 53309

(10) Procedures for receiving, recording, and responding to 53310  
complaints; 53311

(11) Qualifications and training requirements for in-home 53312  
aides; 53313

(12) Standards providing for the special needs of children 53314  
who are handicapped or who receive treatment for health conditions 53315  
while the child is receiving publicly funded child day-care in the 53316  
child's own home; 53317

(13) Any other procedures and standards necessary to carry 53318

out this chapter. 53319

(I) To the extent that any rules adopted for the purposes of 53320  
this section require a health care professional to perform a 53321  
physical examination, the rules shall include as a health care 53322  
professional a physician assistant, a clinical nurse specialist, a 53323  
certified nurse practitioner, or a certified nurse-midwife. 53324

(J)(1) The director of job and family services shall ~~send~~ 53325  
~~copies~~ do all of the following: 53326

(a) Send to each licensee notice of proposed rules to each 53327  
licensee and each county director of job and family services and 53328  
shall give governing the licensure of child day-care centers and 53329  
type A homes; 53330

(b) Give public notice of hearings regarding the rules to 53331  
each licensee and each county director of job and family services 53332  
at least thirty days prior to the date of the public hearing, in 53333  
accordance with section 119.03 of the Revised Code-; 53334

(c) Prior to the effective date of a rule, the director of 53335  
job and family services shall provide copies, in either paper or 53336  
electronic form, a copy of the adopted rule to each licensee and 53337  
each county director of job and family services. 53338

(2) The director shall do all of the following: 53339

(a) Send to each county director of job and family services a 53340  
notice of proposed rules governing the certification of type B 53341  
family homes and in-home aides that includes an internet web site 53342  
address where the proposed rules can be viewed; 53343

(b) Give public notice of hearings regarding the proposed 53344  
rules not less than thirty days in advance; 53345

(c) Provide to each county director of job and family 53346  
services an electronic copy of each adopted rule prior to the 53347  
rule's effective date. 53348

(3) The county director of job and family services shall send 53349  
copies of proposed rules to each authorized provider and in-home 53350  
aide and shall give public notice of hearings regarding the rules 53351  
to each authorized provider and in-home aide at least thirty days 53352  
prior to the date of the public hearing, in accordance with 53353  
section 119.03 of the Revised Code. Prior to the effective date of 53354  
a rule, the county director of job and family services shall 53355  
provide copies of the adopted rule to each authorized provider and 53356  
in-home aide. 53357

(4) Additional copies of proposed and adopted rules shall be 53358  
made available by the director of job and family services to the 53359  
public on request at no charge. 53360

(K) The director of job and family services shall review all 53361  
rules adopted pursuant to this chapter at least once every seven 53362  
years. 53363

(L) Notwithstanding any provision of the Revised Code, the 53364  
director of job and family services shall not regulate in any way 53365  
under this chapter or rules adopted pursuant to this chapter, 53366  
instruction in religious or moral doctrines, beliefs, or values. 53367

**Sec. 5104.02.** (A) The director of job and family services is 53368  
responsible for the licensing of child day-care centers and type A 53369  
family day-care homes, and for the enforcement of this chapter and 53370  
of rules promulgated pursuant to this chapter. No person, firm, 53371  
organization, institution, or agency shall operate, establish, 53372  
manage, conduct, or maintain a child day-care center or type A 53373  
family day-care home without a license issued under section 53374  
5104.03 of the Revised Code. The current license shall be posted 53375  
in a conspicuous place in the center or type A home that is 53376  
accessible to parents, custodians, or guardians and employees of 53377  
the center or type A home at all times when the center or type A 53378  
home is in operation. 53379

(B) A person, firm, institution, organization, or agency	53380
operating any of the following programs is exempt from the	53381
requirements of this chapter:	53382
(1) A program of child day-care that operates for two or less	53383
consecutive weeks;	53384
(2) Child day-care in places of worship during religious	53385
activities during which children are cared for while at least one	53386
parent, guardian, or custodian of each child is participating in	53387
such activities and is readily available;	53388
(3) Religious activities which do not provide child day-care;	53389
(4) Supervised training, instruction, or activities of	53390
children in specific areas, including, but not limited to: art;	53391
drama; dance; music; gymnastics, swimming, or another athletic	53392
skill or sport; computers; or an educational subject conducted on	53393
an organized or periodic basis no more than one day a week and for	53394
no more than six hours duration;	53395
(5) Programs in which the director determines that at least	53396
one parent, custodian, or guardian of each child is on the	53397
premises of the facility offering child day-care and is readily	53398
accessible at all times, except that child day-care provided on	53399
the premises at which a parent, custodian, or guardian is employed	53400
more than two and one-half hours a day shall be licensed in	53401
accordance with division (A) of this section;	53402
(6)(a) Programs that provide child day-care funded and	53403
regulated or operated and regulated by state departments other	53404
than the department of job and family services or the state board	53405
of education when the director of job and family services has	53406
determined that the rules governing the program are equivalent to	53407
or exceed the rules promulgated pursuant to this chapter.	53408
Notwithstanding any exemption from regulation under this	53409

chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the

state board of education for kindergarten only:	53440
(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;	53441 53442 53443 53444
(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;	53445 53446 53447
(c) The program is conducted in a school building;	53448
(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.	53449 53450 53451
(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:	53452 53453 53454
(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.	53455 53456 53457
(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.	53458 53459 53460
(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.	53461 53462 53463 53464
(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).	53465 53466 53467
<b>Sec. 5104.04.</b> (A) The department of job and family services	53468

shall establish procedures to be followed in investigating, 53469  
inspecting, and licensing child day-care centers and type A family 53470  
day-care homes. 53471

(B)(1) The department shall, at least twice during every 53472  
twelve-month period of operation of a center or type A home, 53473  
inspect the center or type A home. The department shall inspect a 53474  
part-time center or part-time type A home at least once during 53475  
every twelve-month period of operation. The department shall 53476  
provide a written inspection report to the licensee within a 53477  
reasonable time after each inspection. The licensee shall display 53478  
all written reports of inspections conducted during the current 53479  
licensing period in a conspicuous place in the center or type A 53480  
home. 53481

At least one inspection shall be unannounced and all 53482  
inspections may be unannounced. No person, firm, organization, 53483  
institution, or agency shall interfere with the inspection of a 53484  
center or type A home by any state or local official engaged in 53485  
performing duties required of the state or local official by 53486  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53487  
Chapter 5104. of the Revised Code, including inspecting the center 53488  
or type A home, reviewing records, or interviewing licensees, 53489  
employees, children, or parents. 53490

Upon receipt of any complaint that a center or type A home is 53491  
out of compliance with the requirements of Chapter 5104. of the 53492  
Revised Code or rules adopted pursuant to Chapter 5104. of the 53493  
Revised Code, the department shall investigate and may inspect a 53494  
center or type A home. 53495

(2) If the department implements an instrument-based program 53496  
monitoring information system, it may use an indicator checklist 53497  
to comply with division (B)(1) of this section. 53498

(3) The department shall, at least once during every 53499

twelve-month period of operation of a center or type A home, 53500  
collect information concerning the amounts charged by the center 53501  
or home for providing child day-care services for use in 53502  
establishing rates of reimbursement and payment pursuant to 53503  
section 5104.30 of the Revised Code. 53504

(C) In the event a licensed center or type A home is 53505  
determined to be out of compliance with the requirements of 53506  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53507  
Chapter 5104. of the Revised Code, the department shall notify the 53508  
licensee of the center or type A home in writing regarding the 53509  
nature of the violation, what must be done to correct the 53510  
violation, and by what date the correction must be made. If the 53511  
correction is not made by the date established by the department, 53512  
the department may commence action under Chapter 119. of the 53513  
Revised Code to revoke the license. 53514

(D) The department may deny or revoke a license, or refuse to 53515  
renew a license of a center or type A home, if the applicant 53516  
knowingly makes a false statement on the application, does not 53517  
comply with the requirements of Chapter 5104. or rules adopted 53518  
pursuant to Chapter 5104. of the Revised Code, or has pleaded 53519  
guilty to or been convicted of an offense described in section 53520  
5104.09 of the Revised Code. 53521

(E) If the department finds, after notice and hearing 53522  
pursuant to Chapter 119. of the Revised Code, that any person, 53523  
firm, organization, institution, or agency licensed under section 53524  
5104.03 of the Revised Code is in violation of any provision of 53525  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53526  
Chapter 5104. of the Revised Code, the department may issue an 53527  
order of revocation to the center or type A home revoking the 53528  
license previously issued by the department. Upon the issuance of 53529  
any order of revocation, the person whose license is revoked may 53530  
appeal in accordance with section 119.12 of the Revised Code. 53531

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child day-care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on 53564  
inspections conducted under this section. The report shall include 53565  
the number of inspections conducted, the number and types of 53566  
violations found, and the steps taken to address the violations. 53567  
The department shall file the report with the governor, the 53568  
president and minority leader of the senate, and the speaker and 53569  
minority leader of the house of representatives on or before the 53570  
first day of January of each year, beginning in 1999. 53571

**Sec. 5104.30.** (A) The department of job and family services 53572  
is hereby designated as the state agency responsible for 53573  
administration and coordination of federal and state funding for 53574  
publicly funded child day-care in this state. Publicly funded 53575  
child day-care shall be provided to the following: 53576

(1) Recipients of transitional child day-care as provided 53577  
under section 5104.34 of the Revised Code; 53578

(2) Participants in the Ohio works first program established 53579  
under Chapter 5107. of the Revised Code; 53580

(3) Individuals who would be participating in the Ohio works 53581  
first program if not for a sanction under section 5107.16 of the 53582  
Revised Code and who continue to participate in a work activity, 53583  
developmental activity, or alternative work activity pursuant to 53584  
an assignment under section 5107.42 of the Revised Code; 53585

(4) A family receiving publicly funded child day-care on 53586  
October 1, 1997, until the family's income reaches one hundred 53587  
fifty per cent of the federal poverty line; 53588

(5) Subject to available funds, other individuals determined 53589  
eligible in accordance with rules adopted under section 5104.38 of 53590  
the Revised Code. 53591

The department shall apply to the United States department of 53592  
health and human services for authority to operate a coordinated 53593

program for publicly funded child day-care, if the director of job 53594  
and family services determines that the application is necessary. 53595  
For purposes of this section, the department of job and family 53596  
services may enter into agreements with other state agencies that 53597  
are involved in regulation or funding of child day-care. The 53598  
department shall consider the special needs of migrant workers 53599  
when it administers and coordinates publicly funded child day-care 53600  
and shall develop appropriate procedures for accommodating the 53601  
needs of migrant workers for publicly funded child day-care. 53602

(B) The department of job and family services shall 53603  
distribute state and federal funds for publicly funded child 53604  
day-care, including appropriations of state funds for publicly 53605  
funded child day-care and appropriations of federal funds ~~for~~ 53606  
~~publicly funded child day-care~~ available under ~~Title XX of the~~ 53607  
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 53608  
~~amended, and the child care block grant act, Title IV-A, and Title~~ 53609  
XX. The department may use any state funds appropriated for 53610  
publicly funded child day-care as the state share required to 53611  
match any federal funds appropriated for publicly funded child 53612  
day-care. 53613

(C) ~~The department may~~ In the use of federal funds available 53614  
under the child care block grant act, all of the following apply: 53615

(1) The department may use the federal funds to hire staff to 53616  
prepare any rules required under this chapter and to administer 53617  
and coordinate federal and state funding for publicly funded child 53618  
day-care. 53619

(2) Not more than five per cent of the aggregate amount of 53620  
~~those~~ the federal funds received for a fiscal year may be expended 53621  
for administrative costs. ~~The~~ 53622

(3) The department shall allocate and use at least four per 53623  
cent of the federal funds for the following: 53624

~~(1)~~(a) Activities designed to provide comprehensive consumer education to parents and the public; 53625  
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~~(2)~~(b) Activities that increase parental choice; 53627

~~(3)~~(c) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care. 53628  
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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. 53631  
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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. 53639  
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The department may develop and maintain a registry of persons 53655

providing child day-care. The director may adopt rules pursuant to 53656  
Chapter 119. of the Revised Code establishing procedures and 53657  
requirements for the registry's administration. 53658

~~(F)~~(E)(1) The director shall adopt rules in accordance with 53659  
Chapter 119. of the Revised Code establishing both of the 53660  
following: 53661

(a) Reimbursement ceilings for providers of publicly funded 53662  
child day-care; 53663

(b) A procedure for reimbursing and paying providers of 53664  
publicly funded child day-care. 53665

(2) In establishing reimbursement ceilings under division 53666  
~~(F)~~(E)(1)(a) of this section, the director shall do all of the 53667  
following: 53668

(a) Use the information obtained under division (B)(3) of 53669  
section 5104.04 of the Revised Code; 53670

(b) Establish an enhanced reimbursement ceiling for providers 53671  
who provide child day-care for caretaker parents who work 53672  
nontraditional hours; 53673

(c) For a type B family day-care home provider that has 53674  
received limited certification pursuant to rules adopted under 53675  
division (G)(1) of section 5104.011 of the Revised Code, establish 53676  
a reimbursement ceiling that is the following: 53677

(i) If the provider is a person described in division 53678  
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 53679  
per cent of the reimbursement ceiling that applies to a type B 53680  
family day-care home certified by the same county department of 53681  
job and family services pursuant to section 5104.11 of the Revised 53682  
Code; 53683

(ii) If the provider is a person described in division 53684  
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 53685

of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code. 53686  
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(3) In establishing reimbursement ceilings under division ~~(F)~~(E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following: 53689  
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(a) Geographic location of the provider; 53692

(b) Type of care provided; 53693

(c) Age of the child served; 53694

(d) Special needs of the child served; 53695

(e) Whether the expanded hours of service are provided; 53696

(f) Whether weekend service is provided; 53697

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child day-care; 53698  
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(h) Any other factors the director considers appropriate. 53700

**Sec. 5104.32.** (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all 53701  
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contracts for the purchase of publicly funded child day-care, 53715  
regardless of the source of public funds used to purchase the 53716  
child day-care. To the extent permitted by federal law and 53717  
notwithstanding any other provision of the Revised Code that 53718  
regulates state or county contracts or contracts involving the 53719  
expenditure of state, county, or federal funds, all contracts for 53720  
publicly funded child day-care shall be entered into in accordance 53721  
with the provisions of this chapter and are exempt from any other 53722  
provision of the Revised Code that regulates state or county 53723  
contracts or contracts involving the expenditure of state, county, 53724  
or federal funds. 53725

(B) Each contract for publicly funded child day-care shall 53726  
specify at least the following: 53727

(1) That the provider of publicly funded child day-care 53728  
agrees to be paid for rendering services at the lowest of the rate 53729  
customarily charged by the provider for children enrolled for 53730  
child day-care, the reimbursement ceiling or rate of payment 53731  
established pursuant to section 5104.30 of the Revised Code, or a 53732  
rate the county department negotiates with the provider; 53733

(2) That, if a provider provides child day-care to an 53734  
individual potentially eligible for publicly funded child day-care 53735  
who is subsequently determined to be eligible, the county 53736  
department agrees to pay for all child day-care provided between 53737  
the date the county department receives the individual's completed 53738  
application and the date the individual's eligibility is 53739  
determined; 53740

(3) Whether the county department of job and family services, 53741  
the provider, or a child day-care resource and referral service 53742  
organization will make eligibility determinations, whether the 53743  
provider or a child day-care resource and referral service 53744  
organization will be required to collect information to be used by 53745  
the county department to make eligibility determinations, and the 53746

time period within which the provider or child day-care resource 53747  
and referral service organization is required to complete required 53748  
eligibility determinations or to transmit to the county department 53749  
any information collected for the purpose of making eligibility 53750  
determinations; 53751

(4) That the provider, other than a border state child 53752  
day-care provider or except as provided in division (B) of section 53753  
3301.37 of the Revised Code, shall continue to be licensed, 53754  
approved, or certified pursuant to this chapter ~~or sections~~ 53755  
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 53756  
standards and other requirements in this chapter ~~and those~~ 53757  
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 53758  
~~sections~~ for maintaining the provider's license, approval, or 53759  
certification; 53760

(5) That, in the case of a border state child day-care 53761  
provider, the provider shall continue to be licensed, certified, 53762  
or otherwise approved by the state in which the provider is 53763  
located and shall comply with all standards and other requirements 53764  
established by that state for maintaining the provider's license, 53765  
certificate, or other approval; 53766

(6) Whether the provider will be paid by the county 53767  
department of job and family services or the state department of 53768  
job and family services; 53769

(7) That the contract is subject to the availability of state 53770  
and federal funds. 53771

(C) Unless specifically prohibited by federal law, the county 53772  
department of job and family services shall give individuals 53773  
eligible for publicly funded child day-care the option of 53774  
obtaining certificates for payment that the individual may use to 53775  
purchase services from any provider qualified to provide publicly 53776  
funded child day-care under section 5104.31 of the Revised Code. 53777

Providers of publicly funded child day-care may present these 53778  
certificates for payment for reimbursement in accordance with 53779  
rules that the director of job and family services shall adopt. 53780  
Only providers may receive reimbursement for certificates for 53781  
payment. The value of the certificate for payment shall be based 53782  
on the lowest of the rate customarily charged by the provider, the 53783  
reimbursement ceiling or rate of payment established pursuant to 53784  
section 5104.30 of the Revised Code, or a rate the county 53785  
department negotiates with the provider. The county department may 53786  
provide the certificates for payment to the individuals or may 53787  
contract with child day-care providers or child day-care resource 53788  
and referral service organizations that make determinations of 53789  
eligibility for publicly funded child day-care pursuant to 53790  
contracts entered into under section 5104.34 of the Revised Code 53791  
for the providers or resource and referral service organizations 53792  
to provide the certificates for payment to individuals whom they 53793  
determine are eligible for publicly funded child day-care. 53794

For each six-month period a provider of publicly funded child 53795  
day-care provides publicly funded child day-care to the child of 53796  
an individual given certificates ~~of~~ for payment, the individual 53797  
shall provide the provider certificates for days the provider 53798  
would have provided publicly funded child day-care to the child 53799  
had the child been present. County departments shall specify the 53800  
maximum number of days providers will be provided certificates of 53801  
payment for days the provider would have provided publicly funded 53802  
child day-care had the child been present. The maximum number of 53803  
days shall not exceed ten days in a six-month period during which 53804  
publicly funded child day-care is provided to the child regardless 53805  
of the number of providers that provide publicly funded child 53806  
day-care to the child during that period. 53807

**Sec. 5107.02.** As used in this chapter: 53808

- (A) "Adult" means an individual who is not a minor child. 53809
- (B) "Assistance group" means a group of individuals treated 53810  
as a unit for purposes of determining eligibility for and the 53811  
amount of assistance provided under Ohio works first. 53812
- (C) "Custodian" means an individual who has legal custody, as 53813  
defined in section 2151.011 of the Revised Code, of a minor child 53814  
or comparable status over a minor child created by a court of 53815  
competent jurisdiction in another state. 53816
- (D) "Guardian" means an individual that is granted authority 53817  
by a probate court pursuant to Chapter 2111. of the Revised Code, 53818  
or a court of competent jurisdiction in another state, to exercise 53819  
parental rights over a minor child to the extent provided in the 53820  
court's order and subject to residual parental rights of the minor 53821  
child's parents. 53822
- (E) "Minor child" means either of the following: 53823
- (1) An individual who has not attained age eighteen; 53824
- (2) An individual who has not attained age nineteen and is a 53825  
full-time student in a secondary school or in the equivalent level 53826  
of vocational or technical training. 53827
- (F) "Minor head of household" means a minor child who is 53828  
either of the following: 53829
- (1) ~~At~~ Is married, at least six months pregnant, and a member 53830  
of an assistance group that does not include an adult; 53831
- (2) ~~A~~ Is married and is a parent of a child included in the 53832  
same assistance group that does not include an adult. 53833
- (G) "Ohio works first" means the program established by this 53834  
chapter known as temporary assistance for needy families in Title 53835  
IV-A. 53836
- (H) "Payment standard" means the amount specified in rules 53837

adopted under section 5107.05 of the Revised Code that is the 53838  
maximum amount of cash assistance an assistance group may receive 53839  
under Ohio works first from state and federal funds. 53840

(I) "Specified relative" means the following individuals who 53841  
are age eighteen or older: 53842

(1) The following individuals related by blood or adoption: 53843

(a) Grandparents, including grandparents with the prefix 53844  
"great," "great-great," or "great-great-great"; 53845

(b) Siblings; 53846

(c) Aunts, uncles, nephews, and nieces, including such 53847  
relatives with the prefix "great," "great-great," "grand," or 53848  
"great-grand"; 53849

(d) First cousins and first cousins once removed. 53850

(2) Stepparents and stepsiblings; 53851

(3) Spouses and former spouses of individuals named in 53852  
division (I)(1) or (2) of this section. 53853

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title 53854  
IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 53855  
301, as amended. 53856

**Sec. 5107.30.** (A) As used in this section: 53857

(1) "LEAP program" means the learning, earning, and parenting 53858  
program. 53859

(2) "Teen" means a participant of Ohio works first who is 53860  
under age ~~twenty~~ eighteen or is age eighteen and in school and is 53861  
a natural or adoptive parent or is pregnant. 53862

(3) "School" means an educational program that is designed to 53863  
lead to the attainment of a high school diploma or the equivalent 53864  
of a high school diploma. 53865

(B) The director of job and family services may adopt rules 53866  
under section 5107.05 of the Revised Code, to the extent that such 53867  
rules are consistent with federal law, to do all of the following: 53868

(1) Define "good cause" and "the equivalent of a high school 53869  
diploma" for the purposes of this section; 53870

(2) Conduct ~~one or more special demonstration programs a~~ 53871  
program titled the "LEAP program" and establish requirements 53872  
governing the program. The purpose of the LEAP program is to 53873  
encourage teens to complete school. 53874

(3) Require every teen who is subject to LEAP program 53875  
requirements to attend school in accordance with the requirements 53876  
governing the program unless the teen shows good cause for not 53877  
attending school. The department shall provide, in addition to the 53878  
cash assistance payment provided under Ohio works first, an 53879  
incentive payment, in an amount determined by the department, to 53880  
every teen who is participating in the LEAP program and attends 53881  
school in accordance with the requirements governing the program. 53882  
The department shall reduce the cash assistance payment, in an 53883  
amount determined by the department, under Ohio works first to 53884  
every teen participating in the LEAP program who fails or refuses, 53885  
without good cause, to ~~attend school in accordance with~~ meet the 53886  
requirements governing the program. 53887

(4) Require every teen who is subject to LEAP program 53888  
requirements to enter into a written agreement with the county 53889  
department of job and family services that provides all of the 53890  
following: 53891

(a) The teen, to be eligible to receive the incentive payment 53892  
under division (B)(3) of this section, must ~~attend school in~~ 53893  
~~accordance with~~ meet the requirements of the LEAP program. 53894

(b) The county department will provide the incentive payment 53895  
to the teen if the teen ~~attends school;~~ meets the requirements of 53896

the LEAP program. 53897

(c) The county department will reduce the cash assistance 53898  
payment under Ohio works first if the teen fails or refuses 53899  
without good cause to attend school in accordance with the 53900  
requirements governing the LEAP program. 53901

~~(5) Evaluate the demonstration programs established under 53902  
this section. In conducting the evaluations, the department of job 53903  
and family services shall select control groups of teens who are 53904  
otherwise subject to the LEAP program requirements. 53905~~

(C) A ~~teen~~ minor head of household who is participating in 53906  
the LEAP program shall be considered to be participating in a work 53907  
activity for the purpose of sections 5107.40 to 5107.69 of the 53908  
Revised Code. However, the ~~teen~~ minor head of household is not 53909  
subject to the requirements or sanctions of those sections, ~~unless 53910  
the teen is over age eighteen and meets the LEAP program 53911  
requirements by participating regularly in work activities, 53912  
developmental activities, or alternative work activities under 53913  
those sections. 53914~~

(D) Subject to the availability of funds, county departments 53915  
of job and family services shall provide for LEAP participants to 53916  
receive support services the county department determines to be 53917  
necessary for LEAP participation. Support services may include 53918  
publicly funded child day-care under Chapter 5104. of the Revised 53919  
Code, transportation, and other services. 53920

**Sec. 5107.37.** ~~An~~ (A) Except as provided in division (B) of 53921  
this section, an individual who resides in a county home, city 53922  
infirmary, jail, or other public institution is not eligible to 53923  
participate in Ohio works first. 53924

(B) Division (A) of this section does not apply to a minor 53925  
child residing with the minor child's mother who participates in a 53926

prison nursery program established under section 5120.65 of the 53927  
Revised Code. 53928

**Sec. 5107.40.** As used in sections 5107.40 to 5107.69 of the 53929  
Revised Code: 53930

(A) "Alternative work 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  
5107.64 of the Revised Code. 53934

(B) "Developmental activity" means an activity designed to 53935  
promote self sufficiency and personal responsibility established 53936  
by a county department of job and family services under section 53937  
5107.62 of the Revised Code. 53938

(C) "High school equivalence diploma" means a diploma 53939  
attesting to achievement of the equivalent of a high school 53940  
education as measured by scores obtained on the tests of general 53941  
educational development published by the American council on 53942  
education. "High school equivalence diploma" includes a 53943  
certificate of high school equivalence issued prior to January 1, 53944  
1994, attesting to the achievement of the equivalent of a high 53945  
school education as measured by scores obtained on tests of 53946  
general educational development. 53947

(D) "Work activity" means the following: 53948

(1) Unsubsidized employment activities established under 53949  
section 5107.60 of the Revised Code; 53950

(2) The subsidized employment program established under 53951  
section 5107.52 of the Revised Code; 53952

(3) The work experience program established under section 53953  
5107.54 of the Revised Code; 53954

(4) On-the-job training activities established under section 53955  
5107.60 of the Revised Code; 53956

(5) The job search and readiness program established under section 5107.50 of the Revised Code;	53957 53958
(6) Community service activities established under section 5107.60 of the Revised Code;	53959 53960
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	53961 53962
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	53963 53964 53965
(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;	53966 53967 53968 53969
(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;	53970 53971 53972 53973 53974 53975
(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;	53976 53977 53978 53979
(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;	53980 53981 53982 53983 53984
(13) <del>Except as limited</del> <u>To the extent provided</u> by division (C) of section 5107.30 of the Revised Code, the LEAP program	53985 53986

established under that section. 53987

**Sec. 5107.60.** In accordance with Title IV-A, federal 53988  
regulations, state law, the Title IV-A state plan prepared under 53989  
section 5101.80 of the Revised Code, and amendments to the plan, 53990  
county departments of job and family services shall establish and 53991  
administer the following work activities, in addition to the work 53992  
activities established under sections 5107.50, 5107.52, 5107.54, 53993  
and 5107.58 of the Revised Code, for minor heads of households and 53994  
adults participating in Ohio works first: 53995

(A) Unsubsidized employment activities, including activities 53996  
a county department determines are legitimate entrepreneurial 53997  
activities; 53998

(B) On-the-job training activities, including training to 53999  
become an employee of a child day-care center or type A family 54000  
day-care home, authorized provider of a certified type B family 54001  
day-care home, or in-home aide; 54002

(C) Community service activities including a program under 54003  
which a participant of Ohio works first who is the parent, 54004  
guardian, custodian, or specified relative responsible for the 54005  
care of a minor child enrolled in grade twelve or lower is 54006  
involved in the minor child's education on a regular basis; 54007

(D) Vocational educational training activities; 54008

(E) Jobs skills training activities that are directly related 54009  
to employment; 54010

(F) Education activities that are directly related to 54011  
employment for participants who have not earned a high school 54012  
diploma or high school equivalence diploma; 54013

(G) Education activities for participants who have not 54014  
completed secondary school or received a high school equivalence 54015  
diploma under which the participants attend a secondary school or 54016

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 54046  
with either the model design for the program that the department 54047  
of job and family services develops under section 5108.05 of the 54048  
Revised Code or the county department's own policies for the 54049  
program developed under section 5108.06 of the Revised Code. 54050~~

**Sec. ~~5108.06~~ 5108.04.** Each county department of job and 54051  
family services shall ~~either adopt the model design for a written~~ 54052  
statement of policies governing the prevention, retention, and 54053  
~~contingency program the department of job and family services~~ 54054  
~~develops under section 5108.05 of the Revised Code or develop its~~ 54055  
~~own policies for the program county. To develop its own policies,~~ 54056  
~~a county department shall adopt a written statement of the~~ 54057  
~~policies governing the program. The policies may be a modification~~ 54058  
~~of the model design, different from the model design, or a~~ 54059  
~~combination. The statement of policies shall be adopted not later~~ 54060  
~~than October 1, 2003, and shall be updated at least every two~~ 54061  
~~years thereafter. A county department may amend its statement of~~ 54062  
~~policies to modify, terminate, and establish new policies. The~~ 54063  
~~county director of job and family services shall sign and date the~~ 54064  
~~statement of policies and any amendment to it. Neither the~~ 54065  
~~statement of policies nor any amendment to it may have an~~ 54066  
~~effective date that is earlier than the date of the county~~ 54067  
~~director's signature. 54068~~

A Each county department of job and family services shall 54069  
~~inform provide~~ the department of job and family services ~~of~~ 54070  
~~whether it has adopted the model design or developed its own~~ 54071  
~~policies for the prevention, retention, and contingency program.~~ 54072  
~~If a county department develops its own policies, it shall provide~~ 54073  
~~the department a written copy of the statement of policies and any~~ 54074  
~~amendments it adopts to the statement not later than ten calendar~~ 54075  
~~days after the statement or amendment's effective date. 54076~~

~~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;

<del>(6) Administrative requirements, and other;</del>	54107
<del>(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.</del>	54108 54109 54110
<del>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.</del>	54111 54112 54113 54114 54115 54116 54117 54118 54119 54120 54121 54122 54123 54124 54125
<del>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.</del>	54126 54127 54128 54129 54130 54131
<del>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></del>	54132 54133 54134
<del><u>(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;</u></del>	54135 54136
<del><u>(2) The review and analysis of the county family services</u></del>	54137

committee conducted in accordance with division (B)(2) of section 54138  
329.06 of the Revised Code; 54139

(3) Title IV-A, federal regulations, state law, the Title 54140  
IV-A state plan submitted to the United States secretary of health 54141  
and human services under section 5101.80 of the Revised Code, and 54142  
amendments to the plan. All benefits and services to be provided 54143  
under the model design or a county department's policies must be 54144  
allowable uses of federal Title IV A funds as specified in 42 54145  
U.S.C.A. 604(a), except that they may not be "assistance" as 54146  
defined in 45 C.F.R. 260.31(a). The benefits and services shall be 54147  
benefits and services that 45 C.F.R. 260.31(b) excludes from the 54148  
definition of assistance. 54149

(C) Either provide the public and local government entities 54150  
at least thirty days to submit comments on, or have the county 54151  
family services planning committee review, the statement of 54152  
policies, including the design of the county's prevention, 54153  
retention, and contingency program, before the county director 54154  
signs and dates the statement of policies. 54155

Sec. 5108.06. In adopting a statement of policies under 54156  
section 5108.04 of the Revised Code for the county's prevention, 54157  
retention, and contingency program, a county department of job and 54158  
family services may specify both of the following: 54159

(A) Benefits and services to be provided under the program 54160  
that prevent and reduce the incidence of out-of-wedlock 54161  
pregnancies or encourage the formation and maintenance of 54162  
two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 54163

(B) How the county department will certify individuals' 54164  
eligibility for such benefits and services. 54165

Sec. 5108.07. (A) Each statement of policies adopted under 54166  
section 5108.04 of the Revised Code shall include the board of 54167

county commissioners' certification that the county department of 54168  
job and family services complied with this chapter in adopting the 54169  
statement of policies. 54170

(B) The board of county commissioners shall revise its 54171  
certification under division (A) of this section if an amendment 54172  
to the statement of policies that the board considers to be 54173  
significant is adopted under section 5108.04 of the Revised Code. 54174

**Sec. 5108.09.** When a state hearing under division (B) of 54175  
section 5101.35 of the Revised Code or an administrative appeal 54176  
under division (C) of that section is held regarding the 54177  
prevention, retention, and contingency program, the hearing 54178  
officer, director of job and family services, or director's 54179  
designee shall base the decision in the hearing or appeal on the 54180  
following: 54181

~~(A) If the county department of job and family services~~ 54182  
~~involved in the hearing or appeal adopted the department of job~~ 54183  
~~and family services' model design for the program developed under~~ 54184  
~~section 5108.05 of the Revised Code, the model design:~~ 54185

~~(B) If the county department developed its own policies for~~ 54186  
~~the program, the county department's department of job and family~~ 54187  
~~services' written statement of policies adopted under section~~ 54188  
~~5108.06 5108.04 of the Revised Code and any amendments the county~~ 54189  
~~department adopted to the statement if the county department~~ 54190  
~~provides a copy of the statement of policies and all amendments to~~ 54191  
~~the hearing officer, director, or director's designee at the~~ 54192  
~~hearing or appeal.~~ 54193

**Sec. 5108.10.** ~~An assistance group seeking to participate in~~ 54194  
~~the prevention, retention, and contingency program shall apply to~~ 54195  
~~a county department of job and family services using Eligibility~~ 54196  
~~for a benefit or service under a county's prevention, retention,~~ 54197

and contingency program shall be certified in accordance with the 54198  
statement of policies adopted under section 5108.04 of the Revised 54199  
Code if the benefit or service does not have a financial need 54200  
eligibility requirement. 54201

Eligibility for a benefit or service shall be determined in 54202  
accordance with the statement of policies and based on an 54203  
application containing information the county department of job 54204  
and family services requires- 54205

When if the benefit or service has a financial need 54206  
eligibility requirement. When a county department receives an 54207  
application for ~~participation in the prevention, retention, and~~ 54208  
~~contingency program~~ such benefits and services, it shall ~~promptly~~ 54209  
~~make an investigation and record of the circumstances of the~~ 54210  
~~applicant in order to ascertain~~ follow verification procedures 54211  
established by the statement of policies to verify the facts 54212  
surrounding the application and to obtain such other information 54213  
as may be required. On completion of the ~~investigation~~ 54214  
verification procedure, the county department shall determine 54215  
whether the applicant is eligible ~~to participate,~~ for the benefits 54216  
or services ~~the applicant should receive,~~ and the approximate date 54217  
when ~~participation is~~ the benefits or services are to begin. 54218

**Sec. 5108.11.** (A) To the extent permitted by section 307.982 54219  
of the Revised Code, a board of county commissioners may enter 54220  
into a written contract with a private or government entity for 54221  
the entity to do either or both of the following for the county's 54222  
prevention, retention, and contingency program: 54223

(1) Certify eligibility for benefits and services that do not 54224  
have a financial need eligibility requirement; 54225

(2) Accept applications and determine and verify eligibility 54226  
for benefits and services that have a financial need eligibility 54227  
requirement. 54228

(B) If a board of county commissioners enters into a contract 54229  
under division (A) of this section with a private or government 54230  
entity, the county department of job and family services shall do 54231  
all of the following: 54232

(1) Ensure that eligibility for benefits and services is 54233  
certified or determined and verified in accordance with the 54234  
statement of policies adopted under section 5108.04 of the Revised 54235  
Code; 54236

(2) Ensure that the private or government entity maintains 54237  
all records that are necessary for audits; 54238

(3) Monitor the private or government entity for compliance 54239  
with Title IV-A, this chapter of the Revised Code, and the 54240  
statement of policies; 54241

(4) Take actions that are necessary to recover any funds that 54242  
are not spent in accordance with Title IV-A or this chapter of the 54243  
Revised Code. 54244

**Sec. 5108.12.** Each county department of job and family 54245  
services is responsible for funds expended or claimed under the 54246  
county's prevention, retention, and contingency program that the 54247  
department of job and family services, auditor of state, United 54248  
States department of health and human services, or other 54249  
government entity determines is expended or claimed in a manner 54250  
that federal or state law or policy does not permit. 54251

**Sec. 5111.0112.** The director of job and family services shall 54252  
examine instituting a copayment program under medicaid. As part of 54253  
the examination, the director shall determine which groups of 54254  
medicaid recipients may be subjected to a copayment requirement 54255  
under federal statutes and regulations ~~and which of those groups~~ 54256  
~~are appropriate for a copayment program designed to reduce~~ 54257  
~~inappropriate and excessive use of medical goods and services. If,~~ 54258

on completion of the examination, the director determines that it 54259  
is feasible to institute such a copayment program, the director 54260  
may seek approval from the United States secretary of health and 54261  
human services to institute the copayment program. If necessary, 54262  
the director may seek approval by applying for a waiver of federal 54263  
statutes and regulations. If such approval is obtained, the 54264  
director shall adopt rules in accordance with Chapter 119. of the 54265  
Revised Code governing the copayment program. 54266

Sec. 5111.0113. Children who are in the temporary or 54267  
permanent custody of a certified public or private nonprofit 54268  
agency or institution or in adoptions subsidized under division 54269  
(B) of section 5153.163 of the Revised Code are eligible for 54270  
medical assistance through the medicaid program established under 54271  
section 5111.01 of the Revised Code. 54272

**Sec. 5111.02.** (A) Under the medical assistance program: 54273

(1) Except as otherwise permitted by federal statute or 54274  
regulation and at the department's discretion, reimbursement by 54275  
the department of job and family services to a medical provider 54276  
for any medical service rendered under the program shall not 54277  
exceed the authorized reimbursement level for the same service 54278  
under the medicare program established under Title XVIII of the 54279  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 54280  
amended. 54281

(2) Reimbursement for freestanding medical laboratory charges 54282  
shall not exceed the customary and usual fee for laboratory 54283  
profiles. 54284

(3) The department may deduct from payments for services 54285  
rendered by a medicaid provider under the medical assistance 54286  
program any amounts the provider owes the state as the result of 54287  
incorrect medical assistance payments the department has made to 54288

the provider. 54289

(4) The department may conduct final fiscal audits in 54290  
accordance with the applicable requirements set forth in federal 54291  
laws and regulations and determine any amounts the provider may 54292  
owe the state. When conducting final fiscal audits, the department 54293  
shall consider generally accepted auditing standards, which 54294  
include the use of statistical sampling. 54295

(5) The number of days of inpatient hospital care for which 54296  
reimbursement is made on behalf of a recipient of medical 54297  
assistance to a hospital that is not paid under a 54298  
diagnostic-related-group prospective payment system shall not 54299  
exceed thirty days during a period beginning on the day of the 54300  
recipient's admission to the hospital and ending sixty days after 54301  
the termination of that hospital stay, except that the department 54302  
may make exceptions to this limitation. The limitation does not 54303  
apply to children participating in the program for medically 54304  
handicapped children established under section 3701.023 of the 54305  
Revised Code. 54306

(B) The director of job and family services may adopt, amend, 54307  
or rescind rules under Chapter 119. of the Revised Code 54308  
establishing the amount, duration, and scope of medical services 54309  
to be included in the medical assistance program. Such rules shall 54310  
establish the conditions under which services are covered and 54311  
reimbursed, the method of reimbursement applicable to each covered 54312  
service, and the amount of reimbursement or, in lieu of such 54313  
amounts, methods by which such amounts are to be determined for 54314  
each covered service. Any rules that pertain to nursing facilities 54315  
or intermediate care facilities for the mentally retarded shall be 54316  
consistent with sections 5111.20 to 5111.33 of the Revised Code. 54317

~~(C) No health insuring corporation that has a contract to 54318  
provide health care services to recipients of medical assistance 54319  
shall restrict the availability to its enrollees of any 54320~~

~~prescription drugs included in the Ohio medicaid drug formulary as~~ 54321  
~~established under rules adopted by the director.~~ 54322

~~(D)~~ The division of any reimbursement between a collaborating 54323  
physician or podiatrist and a clinical nurse specialist, certified 54324  
nurse-midwife, or certified nurse practitioner for services 54325  
performed by the nurse shall be determined and agreed on by the 54326  
nurse and collaborating physician or podiatrist. In no case shall 54327  
reimbursement exceed the payment that the physician or podiatrist 54328  
would have received had the physician or podiatrist provided the 54329  
entire service. 54330

**Sec. 5111.021.** Under the medical assistance program, any 54331  
amount determined to be owed the state by a final fiscal audit 54332  
conducted pursuant to division (A)(4) of section 5111.02 of the 54333  
Revised Code, upon the issuance of an adjudication order pursuant 54334  
to Chapter 119. of the Revised Code that contains a finding that 54335  
there is a preponderance of the evidence that the provider will 54336  
liquidate assets or file bankruptcy in order to prevent payment of 54337  
the amount determined to be owed the state, becomes a lien upon 54338  
the real and personal property of the provider. Upon failure of 54339  
the provider to pay the amount to the state, the director of job 54340  
and family services shall file notice of the lien, for which there 54341  
shall be no charge, in the office of the county recorder of the 54342  
county in which it is ascertained that the provider owns real or 54343  
personal property. The director shall notify the provider by mail 54344  
of the lien, but absence of proof that the notice was sent does 54345  
not affect the validity of the lien. The lien is not valid as 54346  
against the claim of any mortgagee, pledgee, purchaser, judgment 54347  
creditor, or other lienholder of record at the time the notice is 54348  
filed. 54349

If the provider acquires real or personal property after 54350  
notice of the lien is filed, the lien shall not be valid as 54351

against the claim of any mortgagee, pledgee, subsequent bona fide 54352  
purchaser for value, judgment creditor, or other lienholder of 54353  
record to such after-acquired property unless the notice of lien 54354  
is refiled after the property is acquired by the provider and 54355  
before the competing lien attaches to the after-acquired property 54356  
or before the conveyance to the subsequent bona fide purchaser for 54357  
value. 54358

When the amount has been paid, the provider may record with 54359  
the recorder notice of the payment. For recording such notice of 54360  
payment, the recorder shall charge and receive from the provider a 54361  
base fee of one dollar for services and a housing trust fund fee 54362  
of one dollar pursuant to section 317.36 of the Revised Code. 54363

In the event of a distribution of a provider's assets 54364  
pursuant to an order of any court under the law of this state 54365  
including any receivership, assignment for benefit of creditors, 54366  
adjudicated insolvency, or similar proceedings, amounts then or 54367  
thereafter due the state under this chapter have the same priority 54368  
as provided by law for the payment of taxes due the state and 54369  
shall be paid out of the receivership trust fund or other such 54370  
trust fund in the same manner as provided for claims for unpaid 54371  
taxes due the state. 54372

If the attorney general finds after investigation that any 54373  
amount due the state under this chapter is uncollectable, in whole 54374  
or in part, the attorney general shall recommend to the director 54375  
the cancellation of all or part of the claim. The director may 54376  
thereupon effect the cancellation. 54377

**Sec. 5111.022.** (A) As used in this section: 54378

(1) "Community mental health facility" means a community 54379  
mental health facility that has a quality assurance program 54380  
accredited by the joint commission on accreditation of healthcare 54381  
organizations or is certified by the department of mental health 54382

or department of job and family services. 54383

(2) "Mental health professional" means a person qualified to 54384  
work with mentally ill persons under the standards established by 54385  
the director of mental health pursuant to section 5119.611 of the 54386  
Revised Code. 54387

~~(B) The state medicaid plan for providing medical assistance~~ 54388  
~~under Title XIX of the "Social Security Act," 49 Stat. 620, 42~~ 54389  
~~U.S.C.A. 301, as amended,~~ shall include provision of the following 54390  
mental health services when provided by community mental health 54391  
~~facilities described in division (B) of this section:~~ 54392

(1) Outpatient mental health services, including, but not 54393  
limited to, preventive, diagnostic, therapeutic, rehabilitative, 54394  
and palliative interventions rendered to individuals in an 54395  
individual or group setting by a mental health professional in 54396  
accordance with a plan of treatment appropriately established, 54397  
monitored, and reviewed; 54398

(2) Partial-hospitalization mental health services of three 54399  
to fourteen hours per service day, rendered by persons directly 54400  
supervised by a mental health professional; 54401

(3) Unscheduled, emergency mental health services of a kind 54402  
ordinarily provided to persons in crisis when rendered by persons 54403  
supervised by a mental health professional; 54404

(4) Subject to receipt of federal approval, assertive 54405  
community treatment and intensive home-based mental health 54406  
services. 54407

~~(B) Services shall be included in the state plan only when~~ 54408  
~~provided by community mental health facilities that have quality~~ 54409  
~~assurance programs accredited by the joint commission on~~ 54410  
~~accreditation of healthcare organizations or certified by the~~ 54411  
~~department of mental health or department of job and family~~ 54412  
~~services.~~ 54413

(C) The comprehensive annual plan shall certify the 54414  
availability of sufficient unencumbered community mental health 54415  
state subsidy and local funds to match ~~Title XIX federal medicaid~~ 54416  
reimbursement funds earned by ~~the community mental health~~ 54417  
facilities. ~~Reimbursement for eligible services shall be based on~~ 54418  
~~the prospective cost of providing the services as developed in~~ 54419  
~~standards adopted as part of the comprehensive annual plan.~~ 54420

(D) ~~As used in this section, "mental health professional"~~ 54421  
~~means a person qualified to work with mentally ill persons under~~ 54422  
~~the standards established by the director of mental health~~ 54423  
~~pursuant to section 5119.611 of the Revised Code.~~ 54424

(E) ~~With respect to services established by division (A) of~~ 54425  
~~this section, the The department of job and family services shall~~ 54426  
enter into a separate contract with the department of mental 54427  
health under section 5111.91 of the Revised Code with regard to 54428  
the component of the medicaid program provided for by this 54429  
section. ~~The terms of the contract between the department of job~~ 54430  
~~and family services and the department of mental health shall~~ 54431  
~~specify both of the following:~~ 54432

(1) ~~That the department of mental health and boards of~~ 54433  
~~alcohol, drug addiction, and mental health services shall provide~~ 54434  
~~state and local matching funds for Title XIX of the "Social~~ 54435  
~~Security Act," for reimbursement of services established by~~ 54436  
~~division (A) of this section;~~ 54437

(2) ~~How the community mental health facilities described in~~ 54438  
~~division (B) of this section will be paid for providing the~~ 54439  
~~services established by division (A) of this section.~~ 54440

(E) Not later than May 1, 2004, the department of job and 54441  
family services shall request federal approval to provide 54442  
assertive community treatment and intensive home-based mental 54443  
health services under medicaid pursuant to this section. 54444

(F) On receipt of federal approval sought under division (E) 54445  
of this section, the director of job and family services shall 54446  
adopt rules in accordance with Chapter 119. of the Revised Code 54447  
establishing statewide access and acuity standards for partial 54448  
hospitalization mental health services and assertive community 54449  
treatment and intensive home-based mental health services provided 54450  
under medicaid pursuant to this section. The director shall 54451  
consult with the department of mental health in adopting the 54452  
rules. 54453

**Sec. 5111.025.** (A) In rules adopted under section 5111.02 of 54454  
the Revised Code, the director of job and family services shall 54455  
modify the manner or establish a new manner in which the following 54456  
are paid under medicaid: 54457

(1) Community mental health facilities for providing mental 54458  
health services included in the state medicaid plan pursuant to 54459  
section 5111.022 of the Revised Code; 54460

(2) Providers of alcohol and drug addiction services for 54461  
providing alcohol and drug addiction services included in the 54462  
medicaid program pursuant to rules adopted under section 5111.02 54463  
of the Revised Code. 54464

(B) In modifying the manner, or establishing a new manner, 54465  
for medicaid to pay for the services specified in division (A) of 54466  
this section, the director shall include a provision for obtaining 54467  
federal financial participation for the costs that each board of 54468  
alcohol, drug addiction, and mental health services incurs in its 54469  
administration of those services. Except as provided in section 54470  
5111.92 of the Revised Code, the department of job and family 54471  
services shall pay the federal financial participation obtained 54472  
for such administrative costs to the board that incurs the 54473  
administrative costs. 54474

(C) The director's authority to modify the manner, or to 54475  
establish a new manner, for medicaid to pay for the services 54476  
specified in division (A) of this section is not limited by any 54477  
rules adopted under section 5111.02 or 5119.61 of the Revised Code 54478  
that are in effect on the effective date of this section and 54479  
govern the way medicaid pays for those services. This is the case 54480  
regardless of what state agency adopted the rules. 54481

**Sec. 5111.03.** (A) No provider of services or goods 54482  
contracting with the department of job and family services 54483  
pursuant to the medicaid program shall, by deception, obtain or 54484  
attempt to obtain payments under this chapter to which the 54485  
provider is not entitled pursuant to the provider agreement, or 54486  
the rules of the federal government or the department of job and 54487  
family services relating to the program. No provider shall 54488  
willfully receive payments to which the provider is not entitled, 54489  
or willfully receive payments in a greater amount than that to 54490  
which the provider is entitled; nor shall any provider falsify any 54491  
report or document required by state or federal law, rule, or 54492  
provider agreement relating to medicaid payments. As used in this 54493  
section, a provider engages in "deception" when the provider, 54494  
acting with actual knowledge of the representation or information 54495  
involved, acting in deliberate ignorance of the truth or falsity 54496  
of the representation or information involved, or acting in 54497  
reckless disregard of the truth or falsity of the representation 54498  
or information involved, deceives another or causes another to be 54499  
deceived by any false or misleading representation, by withholding 54500  
information, by preventing another from acquiring information, or 54501  
by any other conduct, act, or omission that creates, confirms, or 54502  
perpetuates a false impression in another, including a false 54503  
impression as to law, value, state of mind, or other objective or 54504  
subjective fact. No proof of specific intent to defraud is 54505  
required to show, for purposes of this section, that a provider 54506

has engaged in deception. 54507

(B) Any provider who violates division (A) of this section 54508  
shall be liable, in addition to any other penalties provided by 54509  
law, for all of the following civil penalties: 54510

(1) Payment of interest on the amount of the excess payments 54511  
at the maximum interest rate allowable for real estate mortgages 54512  
under section 1343.01 of the Revised Code on the date the payment 54513  
was made to the provider for the period from the date upon which 54514  
payment was made, to the date upon which repayment is made to the 54515  
state; 54516

(2) Payment of an amount equal to three times the amount of 54517  
any excess payments; 54518

(3) Payment of a sum of not less than five thousand dollars 54519  
and not more than ten thousand dollars for each deceptive claim or 54520  
falsification; 54521

(4) All reasonable expenses which the court determines have 54522  
been necessarily incurred by the state in the enforcement of this 54523  
section. 54524

(C) ~~In~~ As used in this division, "intermediate care facility 54525  
for the mentally retarded" and "nursing facility" have the same 54526  
meanings given in section 5111.20 of the Revised Code. 54527

In addition to the civil penalties provided in division (B) 54528  
of this section, the director of job and family services, upon the 54529  
conviction of, or the entry of a judgment in either a criminal or 54530  
civil action against, a medicaid provider or its owner, officer, 54531  
authorized agent, associate, manager, or employee in an action 54532  
brought pursuant to section 109.85 of the Revised Code, shall 54533  
terminate the provider agreement between the department and the 54534  
provider and stop reimbursement to the provider for services 54535  
rendered for a period of up to five years from the date of 54536  
conviction or entry of judgment. As used in this chapter, "owner" 54537

means any person having at least five per cent ownership in the 54538  
medicaid provider. No such provider, owner, officer, authorized 54539  
agent, associate, manager, or employee shall own or provide 54540  
services to any other medicaid provider or risk contractor or 54541  
arrange for, render, or order services for medicaid recipients 54542  
during the period of termination as provided in division (C) of 54543  
this section, nor, during the period of termination as provided in 54544  
division (C) of this section, shall such provider, owner, officer, 54545  
authorized agent, associate, manager, or employee receive 54546  
reimbursement in the form of direct payments from the department 54547  
or indirect payments of medicaid funds in the form of salary, 54548  
shared fees, contracts, kickbacks, or rebates from or through any 54549  
participating provider or risk contractor. The provider agreement 54550  
shall not be terminated or reimbursement terminated if the 54551  
provider or owner can demonstrate that the provider or owner did 54552  
not directly or indirectly sanction the action of its authorized 54553  
agent, associate, manager, or employee that resulted in the 54554  
conviction or entry of a judgment in a criminal or civil action 54555  
brought pursuant to section 109.85 of the Revised Code. Nothing in 54556  
this division prohibits any owner, officer, authorized agent, 54557  
associate, manager, or employee of a medicaid provider from 54558  
entering into a medicaid provider agreement if the person can 54559  
demonstrate that the person had no knowledge of an action of the 54560  
medicaid provider the person was formerly associated with that 54561  
resulted in the conviction or entry of a judgment in a criminal or 54562  
civil action brought pursuant to section 109.85 of the Revised 54563  
Code. 54564

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 54565  
~~Revised Code~~ Nursing facility or intermediate care facility for 54566  
the mentally retarded providers whose agreements are terminated 54567  
pursuant to this section may continue to receive reimbursement for 54568  
up to thirty days after the effective date of the termination if 54569  
the provider makes reasonable efforts to transfer recipients to 54570

another facility or to alternate care and if federal funds are 54571  
provided for such reimbursement. 54572

(D) Any provider of services or goods contracting with the 54573  
department of job and family services pursuant to Title XIX of the 54574  
"Social Security Act," who, without intent, obtains payments under 54575  
this chapter in excess of the amount to which the provider is 54576  
entitled, thereby becomes liable for payment of interest on the 54577  
amount of the excess payments at the maximum real estate mortgage 54578  
rate on the date the payment was made to the provider for the 54579  
period from the date upon which payment was made to the date upon 54580  
which repayment is made to the state. 54581

(E) The attorney general on behalf of the state may commence 54582  
proceedings to enforce this section in any court of competent 54583  
jurisdiction; and the attorney general may settle or compromise 54584  
any case brought under this section with the approval of the 54585  
department of job and family services. Notwithstanding any other 54586  
provision of law providing a shorter period of limitations, the 54587  
attorney general may commence a proceeding to enforce this section 54588  
at any time within six years after the conduct in violation of 54589  
this section terminates. 54590

(F) The authority, under state and federal law, of the 54591  
department of job and family services or a county department of 54592  
job and family services to recover excess payments made to a 54593  
provider is not limited by the availability of remedies under 54594  
sections 5111.11 and 5111.12 of the Revised Code for recovering 54595  
benefits paid on behalf of recipients of medical assistance. 54596

The penalties under this chapter apply to any overpayment, 54597  
billing, or falsification occurring on and after April 24, 1978. 54598  
All moneys collected by the state pursuant to this section shall 54599  
be deposited in the state treasury to the credit of the general 54600  
revenue fund. 54601

Sec. 5111.06. (A)(1) As used in this section: 54602

(a) "Provider" means any person, institution, or entity that 54603  
furnishes medicaid services under a provider agreement with the 54604  
department of job and family services pursuant to Title XIX of the 54605  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 54606  
amended. 54607

(b) "Party" has the same meaning as in division (G) of 54608  
section 119.01 of the Revised Code. 54609

(c) "Adjudication" has the same meaning as in division (D) of 54610  
section 119.01 of the Revised Code. 54611

(2) This section does not apply to any action taken by the 54612  
department of job and family services under sections 5111.35 to 54613  
5111.62 of the Revised Code. 54614

(B) Except as provided in division (D) of this section, the 54615  
department shall do either of the following by issuing an order 54616  
pursuant to an adjudication conducted in accordance with Chapter 54617  
119. of the Revised Code: 54618

(1) Enter into or refuse to enter into a provider agreement 54619  
with a provider, or suspend, terminate, renew, or refuse to renew 54620  
an existing provider agreement with a provider; 54621

(2) Take any action based upon a final fiscal audit of a 54622  
provider. 54623

(C) Any party who is adversely affected by the issuance of an 54624  
adjudication order under division (B) of this section may appeal 54625  
to the court of common pleas of Franklin county in accordance with 54626  
section 119.12 of the Revised Code. 54627

(D) The department is not required to comply with division 54628  
(B)(1) of this section whenever any of the following occur: 54629

(1) The terms of a provider agreement require the provider to 54630

have a license, permit, or certificate issued by an official, 54631  
board, commission, department, division, bureau, or other agency 54632  
of state government other than the department of job and family 54633  
services, and the license, permit, or certificate has been denied 54634  
or revoked. 54635

(2) The provider agreement is denied, terminated, or not 54636  
renewed pursuant to division (C) or (E) of section 5111.03 of the 54637  
Revised Code; 54638

(3) The provider agreement is denied, terminated, or not 54639  
renewed due to the provider's termination, suspension, or 54640  
exclusion from the medicare program established under Title XVIII 54641  
of the "Social Security Act," and the termination, suspension, or 54642  
exclusion is binding on the provider's participation in the 54643  
medicaid program; 54644

(4) The provider agreement is denied, terminated, or not 54645  
renewed due to the provider's pleading guilty to or being 54646  
convicted of a criminal activity materially related to either the 54647  
medicare or medicaid program; 54648

(5) The provider agreement is denied, terminated, or 54649  
suspended as a result of action by the United States department of 54650  
health and human services and that action is binding on the 54651  
provider's participation in the medicaid program. 54652

(E) The department may withhold payments for services 54653  
rendered by a medicaid provider under the medical assistance 54654  
program during the pendency of proceedings initiated under 54655  
division (B)(1) of this section. If the proceedings are initiated 54656  
under division (B)(2) of this section, the department may withhold 54657  
payments only to the extent that they equal amounts determined in 54658  
a final fiscal audit as being due the state. This division does 54659  
not apply if the department fails to comply with section 119.07 of 54660  
the Revised Code, requests a continuance of the hearing, or does 54661

not issue a decision within thirty days after the hearing is 54662  
completed. This division does not apply to nursing facilities and 54663  
intermediate care facilities for the mentally retarded ~~subject to~~ 54664  
~~sections as defined in section~~ 5111.20 to 5111.32 of the Revised 54665  
Code. 54666

**Sec. ~~5111.08~~ 5111.071.** Commencing in December, 1986, and 54667  
every second December thereafter, the director of job and family 54668  
services shall establish a dispensing fee, effective the following 54669  
January, for licensed pharmacists who are providers under this 54670  
chapter. The dispensing fee shall take into consideration the 54671  
results of the survey conducted under section 5111.07 of the 54672  
Revised Code. 54673

**Sec. ~~5111.16~~ 5111.08.** In accordance with subsection (g) of 54674  
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 54675  
U.S.C.A. 1396r-8(g), as amended, the department of job and family 54676  
services shall establish an outpatient drug use review program to 54677  
assure that prescriptions obtained by recipients of medical 54678  
assistance under this chapter are appropriate, medically 54679  
necessary, and unlikely to cause adverse medical results. 54680

**Sec. 5111.082.** The director of job and family services, in 54681  
rules adopted under section 5111.02 of the Revised Code, may 54682  
establish and implement a supplemental drug rebate program under 54683  
which drug manufacturers may be required to provide the department 54684  
of job and family services a supplemental rebate as a condition of 54685  
having the drug manufacturers' drug products covered by the 54686  
medicaid program without prior approval. If necessary, the 54687  
director may apply to the United States secretary of health and 54688  
human services for a waiver of federal statutes and regulations to 54689  
establish the supplemental drug rebate program. 54690

If the director establishes a supplemental drug rebate 54691

program, the director shall consult with drug manufacturers 54692  
regarding the establishment and implementation of the program. 54693

If the director establishes a supplemental drug rebate 54694  
program, the director shall exempt from the program and from prior 54695  
authorization or any other restriction all of a drug 54696  
manufacturer's drug products that have been approved by the United 54697  
States food and drug administration and for which there is no 54698  
generic equivalent for the treatment of either of the following: 54699

(A) Mental illness, as defined in section 5122.01 of the 54700  
Revised Code, including schizophrenia, major depressive disorder, 54701  
and bipolar disorder; 54702

(B) HIV or AIDS, both as defined in section 3701.24 of the 54703  
Revised Code. 54704

**Sec. 5111.111.** As used in this section, "home and 54705  
community-based services" means services provided pursuant to a 54706  
waiver under section 1915 of the "Social Security Act," 49 Stat. 54707  
620 (1935), 42 U.S.C.A. 1396n, as amended. 54708

The department of job and family services may place a lien 54709  
against the property of a medical assistance recipient or 54710  
recipient's spouse, other than a recipient or spouse of a 54711  
recipient of home and community-based services, that the 54712  
department may recover as part of the program instituted under 54713  
section 5111.11 of the Revised Code. When medical assistance is 54714  
paid on behalf of any person in circumstances under which federal 54715  
law and regulations and this section permit the imposition of a 54716  
lien, the director of job and family services or a person 54717  
designated by the director may sign a certificate to the effect. 54718  
The county department of job and family services shall file for 54719  
recording and indexing the certificate, or a certified copy, in 54720  
the real estate mortgage records in the office of the county 54721  
recorder in every county in which real property of the recipient 54722

or spouse is situated. From the time of filing the certificate in 54723  
the office of the county recorder, the lien attaches to all real 54724  
property of the recipient or spouse described therein for all 54725  
amounts of aid which are paid or which thereafter are paid, and 54726  
shall remain a lien until satisfied. 54727

Upon filing the certificate in the office of the recorder, 54728  
all persons are charged with notice of the lien and the rights of 54729  
the department of job and family services thereunder. 54730

The county recorder shall keep a record of every certificate 54731  
filed showing its date, the time of filing, the name and residence 54732  
of the recipient or spouse, and any release, waivers, or 54733  
satisfaction of the lien. 54734

The priority of the lien shall be established in accordance 54735  
with state and federal law. 54736

The department may waive the priority of its lien to provide 54737  
for the costs of the last illness as determined by the department, 54738  
administration, attorney fees, administrator fees, a sum for the 54739  
payment of the costs of burial, which shall be computed by 54740  
deducting from five hundred dollars whatever amount is available 54741  
for the same purpose from all other sources, and a similar sum for 54742  
the spouse of the decedent. 54743

Sec. 5111.151. (A) This section applies to eligibility 54744  
determinations for all cases involving medical assistance provided 54745  
pursuant to this chapter, qualified medicare beneficiaries, 54746  
specified low-income medicare beneficiaries, qualifying 54747  
individuals-1, qualifying individuals-2, and medical assistance 54748  
for covered families and children. 54749

(B) As used in this section: 54750

(1) "Trust" means any arrangement in which a grantor 54751  
transfers real or personal property to a trust with the intention 54752

that it be held, managed, or administered by at least one trustee 54753  
for the benefit of the grantor or beneficiaries. "Trust" includes 54754  
any legal instrument or device similar to a trust. 54755

(2) "Legal instrument or device similar to a trust" includes, 54756  
but is not limited to, escrow accounts, investment accounts, 54757  
partnerships, contracts, and other similar arrangements that are 54758  
not called trusts under state law but are similar to a trust and 54759  
to which all of the following apply: 54760

(a) The property in the trust is held, managed, retained, or 54761  
administered by a trustee. 54762

(b) The trustee has an equitable, legal, or fiduciary duty to 54763  
hold, manage, retain, or administer the property for the benefit 54764  
of the beneficiary. 54765

(c) The trustee holds identifiable property for the 54766  
beneficiary. 54767

(3) "Grantor" is a person who creates a trust, including all 54768  
of the following: 54769

(a) An individual; 54770

(b) An individual's spouse; 54771

(c) A person, including a court or administrative body, with 54772  
legal authority to act in place of or on behalf of an individual 54773  
or an individual's spouse; 54774

(d) A person, including a court or administrative body, that 54775  
acts at the direction or on request of an individual or the 54776  
individual's spouse. 54777

(4) "Beneficiary" is a person or persons, including a 54778  
grantor, who benefits in some way from a trust. 54779

(5) "Trustee" is a person who manages a trust's principal and 54780  
income for the benefit of the beneficiaries. 54781

- (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. 54782  
54783  
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- (7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse. 54785  
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- (8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse. 54787  
54788
- (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: 54789  
54790  
54791
- (a) A trust that provides that the trust can be terminated only by a court; 54792  
54793
- (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. 54794  
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- (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. 54797  
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54800
- (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. 54801  
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- (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. 54804  
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- (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. 54807  
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- (C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine 54810  
54811

what type of trust it is and shall treat the trust in accordance 54812  
with the appropriate provisions of this section and rules adopted 54813  
by the department of job and family services governing trusts. The 54814  
county department of job and family services may determine that 54815  
the trust or portion of the trust is one of the following: 54816

(1) A countable resource; 54817

(2) Countable income; 54818

(3) A countable resource and countable income; 54819

(4) Not a countable resource or countable income. 54820

(D)(1) A trust or legal instrument or device similar to a 54821  
trust shall be considered a self-settled trust if all of the 54822  
following apply: 54823

(a) The trust was established on or after August 11, 1993. 54824

(b) The trust was not established by a will. 54825

(c) The trust was established by an applicant or recipient, 54826  
spouse of an applicant or recipient, or a person, including a 54827  
court or administrative body, with legal authority to act in place 54828  
of or on behalf of an applicant, recipient, or spouse, or acting 54829  
at the direction or on request of an applicant, recipient, or 54830  
spouse. 54831

(2) A trust that meets the requirements of division (D)(1) of 54832  
this section and is a revocable trust shall be treated by the 54833  
county department of job and family services as follows: 54834

(a) The corpus of the trust shall be considered a resource 54835  
available to the applicant or recipient. 54836

(b) Payments from the trust to or for the benefit of the 54837  
applicant or recipient shall be considered unearned income of the 54838  
applicant or recipient. 54839

(c) Any other payments from the trust shall be considered an 54840

improper transfer of resources and shall be subject to rules 54841  
adopted by the department of job and family services governing 54842  
improper transfers of resources. 54843

(3) A trust that meets the requirements of division (D)(1) of 54844  
this section and is an irrevocable trust shall be treated by the 54845  
county department of job and family services as follows: 54846

(a) If there are any circumstances under which payment from 54847  
the trust could be made to or for the benefit of the applicant or 54848  
recipient, including a payment that can be made only in the 54849  
future, the portion from which payments could be made shall be 54850  
considered a resource available to the applicant or recipient. The 54851  
county department of job and family services shall not take into 54852  
account when payments can be made. 54853

(b) Any payment that is actually made to or for the benefit 54854  
of the applicant or recipient from either the corpus or income 54855  
shall be considered unearned income. 54856

(c) If a payment is made to someone other than to the 54857  
applicant or recipient and the payment is not for the benefit of 54858  
the applicant or recipient, the payment shall be considered an 54859  
improper transfer of resources and shall be subject to rules 54860  
adopted by the department of job and family services governing 54861  
improper transfers of resources. 54862

(d) The date of the transfer shall be the later of the date 54863  
of establishment of the trust or the date of the occurrence of the 54864  
event. 54865

(e) When determining the value of the transferred resource 54866  
under this provision, the value of the trust shall be its value on 54867  
the date payment to the applicant or recipient was foreclosed. 54868

(f) Any income earned or other resources added subsequent to 54869  
the foreclosure date shall be added to the total value of the 54870  
trust. 54871

(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. 54872  
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(h) Any addition of resources after the foreclosure date shall be considered a separate transfer. 54876  
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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. 54878  
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(5) The availability of a self-settled trust shall be considered without regard to any of the following: 54884  
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(a) The purpose for which the trust is established; 54886

(b) Whether the trustees have exercised or may exercise discretion under the trust; 54887  
54888

(c) Any restrictions on when or whether distributions may be made from the trust; 54889  
54890

(d) Any restrictions on the use of distributions from the trust. 54891  
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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: 54893  
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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 54899  
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applicant or recipient, the distribution shall be considered an 54902  
improper transfer of resources. The look-back period shall be 54903  
sixty months from the baseline date. The transfer shall be 54904  
considered to have taken place on the date on which the payment to 54905  
someone other than the applicant or recipient was made. 54906

(b) If a self-settled trust is an irrevocable trust and a 54907  
portion of the trust is not distributable to the applicant or 54908  
recipient, the trust shall be treated as an improper transfer of 54909  
resources. The look-back period shall be sixty months from the 54910  
baseline date. The transfer is considered to have been made as of 54911  
the later of the date the trust was established or the date on 54912  
which payment to the applicant or recipient was foreclosed. The 54913  
value of these assets shall not be reduced by any payments from 54914  
the trust that may be made from these unavailable assets at a 54915  
later date. 54916

(c) If a self-settled trust is an irrevocable trust and a 54917  
portion or all of the trust may be disbursed to or for the benefit 54918  
of the applicant or recipient, any payment that is made to another 54919  
person other than the applicant or recipient shall be considered 54920  
an improper transfer of resources. The look-back period is 54921  
thirty-six months from the baseline date. The transfer shall be 54922  
considered to have been made as of the date of payment to the 54923  
other person. 54924

(E) The principal or income from any of the following shall 54925  
be exempt from being counted as a resource by a county department 54926  
of job and family services: 54927

(1)(a) A special needs trust that meets all of the following 54928  
requirements: 54929

(i) The trust contains assets of an applicant or recipient 54930  
under sixty-five years of age and may contain the assets of other 54931  
individuals. 54932

(ii) The applicant or recipient is disabled as defined in 54933  
rules adopted by the department of job and family services. 54934

(iii) The trust is established for the benefit of the 54935  
applicant or recipient by a parent, grandparent, legal guardian, 54936  
or a court. 54937

(iv) The trust requires that on the death of the applicant or 54938  
recipient the state will receive all amounts remaining in the 54939  
trust up to an amount equal to the total amount of medical 54940  
assistance paid on behalf of the applicant or recipient. 54941

(b) If a special needs trust meets the requirements of 54942  
division (E)(1)(a) of this section and has been established for a 54943  
disabled applicant or recipient under sixty-five years of age, the 54944  
exemption for the trust granted pursuant to division (E) of this 54945  
section shall continue after the disabled applicant or recipient 54946  
becomes sixty-five years of age if the applicant or recipient 54947  
continues to be disabled as defined in rules adopted by the 54948  
department of job and family services. Except for income earned by 54949  
the trust, the grantor shall not add to or otherwise augment the 54950  
trust after the applicant or recipient attains sixty-five years of 54951  
age. An addition or augmentation of the trust by the applicant or 54952  
recipient with the applicant's own assets after the applicant or 54953  
recipient attains sixty-five years of age shall be treated as an 54954  
improper transfer of resources. 54955

(c) Cash distributions to the applicant or recipient shall be 54956  
counted as unearned income. All other distributions from the trust 54957  
shall be treated as provided in rules adopted by the department of 54958  
job and family services governing in-kind income. 54959

(d) Transfers of assets to a special needs trust shall not be 54960  
treated as an improper transfer of resources. Assets held prior to 54961  
the transfer to the trust shall be considered as countable assets 54962  
or countable income or countable assets and income. 54963

<u>(2)(a) A qualifying income trust that meets all of the</u>	54964
<u>following requirements:</u>	54965
<u>(i) The trust is composed only of pension, social security,</u>	54966
<u>and other income to the applicant or recipient, including</u>	54967
<u>accumulated interest in the trust.</u>	54968
<u>(ii) The income is received by the individual and the right</u>	54969
<u>to receive the income is not assigned or transferred to the trust.</u>	54970
<u>(iii) The trust requires that on the death of the applicant</u>	54971
<u>or recipient the state will receive all amounts remaining in the</u>	54972
<u>trust up to an amount equal to the total amount of medical</u>	54973
<u>assistance paid on behalf of the applicant or recipient.</u>	54974
<u>(b) No resources shall be used to establish or augment the</u>	54975
<u>trust.</u>	54976
<u>(c) If an applicant or recipient has irrevocably transferred</u>	54977
<u>or assigned the applicant's or recipient's right to receive income</u>	54978
<u>to the trust, the trust shall not be considered a qualifying</u>	54979
<u>income trust by the county department of job and family services.</u>	54980
<u>(d) Income placed in a qualifying income trust shall not be</u>	54981
<u>counted in determining an applicant's or recipient's eligibility</u>	54982
<u>for medical assistance. The recipient of the funds may place any</u>	54983
<u>income directly into a qualifying income trust without those funds</u>	54984
<u>adversely affecting the applicant's or recipient's eligibility for</u>	54985
<u>medical assistance. Income generated by the trust that remains in</u>	54986
<u>the trust shall not be considered as income to the applicant or</u>	54987
<u>recipient.</u>	54988
<u>(e) All income placed in a qualifying income trust shall be</u>	54989
<u>combined with any countable income not placed in the trust to</u>	54990
<u>arrive at a base income figure to be used for spend down</u>	54991
<u>calculations.</u>	54992
<u>(f) The base income figure shall be used for post-eligibility</u>	54993

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. 54994  
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(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. 55000  
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(3)(a) A pooled trust that meets all of the following requirements: 55006  
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(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. 55008  
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(ii) The trust is established and managed by a nonprofit association. 55011  
55012

(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. 55013  
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(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. 55016  
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(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 55020  
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beneficiary. 55025

(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. 55026  
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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. 55030  
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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: 55034  
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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: 55037  
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(i) The department of mental retardation and developmental disabilities; 55041  
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(ii) A county board of mental retardation and developmental disabilities; 55043  
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(iii) The department of mental health; 55045

(iv) A board of alcohol, drug addiction, and mental health services. 55046  
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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: 55048  
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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; 55051  
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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. 55055  
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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. 55059  
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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. 55064  
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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. 55067  
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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. 55073  
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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: 55079  
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(a) The trust is created by a person other than the applicant or recipient. 55083  
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(b) The trust names the applicant or recipient as a beneficiary. 55085  
55086

(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. 55087  
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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. 55090  
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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: 55096  
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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; 55099  
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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; 55102  
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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. 55106  
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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: 55108  
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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 55111  
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preserve a portion of the trust shall not qualify as a clear 55115  
statement requiring the trustee to preserve a portion of the 55116  
trust. 55117

(b) If a trust contains a clear statement requiring the 55118  
trustee to use a portion of the trust for a purpose other than 55119  
medical care, care, comfort, maintenance, welfare, or general well 55120  
being of the applicant or recipient, that portion of the trust 55121  
shall not be counted as an available resource. Terms of a trust 55122  
that grant discretion to limit the use of a portion of the trust 55123  
shall not qualify as a clear statement requiring the trustee to 55124  
use a portion of the trust for a particular purpose. 55125

(c) If a trust contains a clear statement limiting the 55126  
trustee to making fixed periodic payments, the trust shall not be 55127  
counted as an available resource and payments shall be treated in 55128  
accordance with rules adopted by the department of job and family 55129  
services governing income. Terms of a trust that grant discretion 55130  
to limit payments shall not qualify as a clear statement requiring 55131  
the trustee to make fixed periodic payments. 55132

(d) If a trust contains a clear statement that requires the 55133  
trustee to terminate the trust if it is counted as an available 55134  
resource, the trust shall not be counted as an available resource. 55135  
Terms of a trust that grant discretion to terminate the trust do 55136  
not qualify as a clear statement requiring the trustee to 55137  
terminate the trust. 55138

(e) If a person obtains a judgment from a court of competent 55139  
jurisdiction that expressly prevents the trustee from using part 55140  
or all of the trust for the medical care, care, comfort, 55141  
maintenance, welfare, or general well being of the applicant or 55142  
recipient, the trust or that portion of the trust subject to the 55143  
court order shall not be counted as a resource. 55144

(f) If a trust is specifically exempt from being counted as 55145

an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 55146  
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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. 55148  
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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. 55153  
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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. 55160  
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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. 55164  
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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 55173  
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services for waivers of federal medicaid requirements that would 55177  
otherwise be violated in the implementation of the system. 55178

The department shall implement the care management system in 55179  
some or all counties and shall designate the medicaid recipients 55180  
who are required or permitted to participate in the system. In the 55181  
case of individuals who receive medicaid on the basis of being 55182  
aged, blind, or disabled, as specified in division (A)(2) of 55183  
section 5111.01 of the Revised Code, all of the following apply: 55184

(1) Not later than July 1, 2004, the department shall 55185  
designate a portion of the individuals for participation in the 55186  
care management system. 55187

(2) Individuals shall not be designated for participation 55188  
unless they reside in a county in which individuals who receive 55189  
medicaid on another basis have been designated for participation. 55190

(3) If, pursuant to division (B)(2) of this section, the 55191  
department requires or permits the individuals to obtain health 55192  
care services through managed care organizations, the department 55193  
shall select the managed care organizations to be used by the 55194  
individuals through a request for proposals process. The 55195  
department shall issue its initial request for proposals not later 55196  
than December 31, 2003. 55197

(4) Individuals shall not be required to obtain health care 55198  
services through managed care organizations unless they are at 55199  
least twenty-one years of age. 55200

(B) Under the care management system, the department may do 55201  
both of the following: 55202

(1) Require or permit participants in the system to obtain 55203  
health care services from providers designated by the department; 55204

(2) Subject to division (A)(4) of this section, require or 55205  
permit participants in the system to obtain health care services 55206

through managed care organizations under contract with the 55207  
department pursuant to section 5111.17 of the Revised Code. 55208

(C) The director of job and family services may adopt rules 55209  
in accordance with Chapter 119. of the Revised Code to implement 55210  
this section. 55211

**Sec. 5111.161.** (A) As used in this section, "chronically ill 55212  
child" means an individual who is not more than twenty-one years 55213  
of age and meets the conditions specified in division (A)(2) of 55214  
section 5111.01 of the Revised Code to be eligible for medicaid on 55215  
the basis of being blind or disabled. 55216

(B) The department of job and family services shall develop a 55217  
pilot program under which chronically ill children are included 55218  
among the medicaid recipients who are required to participate in 55219  
the care management system established under section 5111.16 of 55220  
the Revised Code. The pilot program shall be implemented not later 55221  
than October 1, 2003. The department shall operate the program 55222  
until October 1, 2005, except that the department shall cease 55223  
operation of the program before that date if either of the 55224  
following is the case: 55225

(1) The department determines that requiring chronically ill 55226  
children to participate in the care management system is not a 55227  
cost-effective means of providing medicaid services; 55228

(2) The combined state and federal cost of operating the 55229  
program reaches three million dollars. 55230

(C) The department shall ensure that the pilot program is 55231  
operated in Hamilton county, Muskingum county, and at least one 55232  
other county selected by the department. The department may extend 55233  
its operation of the program into the areas surrounding the 55234  
counties in which the program is operated. 55235

(D) The purpose of the pilot program shall be to determine 55236

whether occurrences of acute illnesses and hospitalizations among 55237  
chronically ill children can be prevented or reduced by 55238  
establishing a medical home for the children where care is 55239  
administered proactively and in a manner that is accessible, 55240  
continuous, family-centered, coordinated, and compassionate. In 55241  
establishing a medical home for a chronically ill child, all of 55242  
the following apply: 55243

(1) A physician shall serve as the care coordinator for the 55244  
child. The care coordinator may be engaged in practice as a 55245  
pediatrician certified in pediatrics by a medical specialty board 55246  
of the American medical association or American osteopathic 55247  
association, a pediatric subspecialist, or a provider for the 55248  
bureau of children with medical handicaps within the department of 55249  
health. If the physician is in a group practice, any member of the 55250  
group practice may serve as the child's care coordinator. The 55251  
duties of the care coordinator may be performed by a person acting 55252  
under the supervision of the care coordinator. 55253

(2) The child may receive care from any health care 55254  
practitioner appropriate to the child's needs, but the care 55255  
coordinator shall direct and oversee the child's overall care. 55256

(3) The care coordinator shall establish a relationship of 55257  
mutual responsibility with the child's parents or other persons 55258  
who are responsible for the child. Under this relationship, the 55259  
care coordinator shall commit to developing a long-term disease 55260  
prevention strategy and providing disease management and education 55261  
services, while the child's parents or other persons who are 55262  
responsible for the child shall commit to participate fully in 55263  
implementing the child's care management plan. 55264

(4) The medicaid program shall provide reimbursement for the 55265  
reasonable and necessary costs of the services associated with 55266  
care coordination, including, but not limited to, case management, 55267  
care plan oversight, preventive care, health and behavioral care 55268

assessment and intervention, and any service modifier that 55269  
reflects the provision of prolonged services or additional care. 55270

(E) The department shall conduct an evaluation of the pilot 55271  
program's effectiveness. As part of the evaluation, the department 55272  
shall maintain statistics on physician expenditures, hospital 55273  
expenditures, preventable hospitalizations, and other matters the 55274  
department considers necessary to conduct the evaluation. 55275

(F) The department shall adopt rules in accordance with 55276  
Chapter 119. of the Revised Code as necessary to implement this 55277  
section. The rules shall specify standards and procedures to be 55278  
used in designating the chronically ill children who are required 55279  
to participate in the pilot program. 55280

**Sec. 5111.17.** ~~(A) On receipt of a waiver from the United~~ 55281  
~~States department of health and human services of any federal~~ 55282  
~~requirement that would otherwise be violated, the~~ The department 55283  
of job and family services may establish in some or all counties a 55284  
managed care system under which designated recipients of medical 55285  
assistance are required to obtain health care services from 55286  
providers designated by the department. 55287

~~(B) The department may enter into contracts with managed care~~ 55288  
~~organizations to authorize, including health insuring~~ 55289  
corporations, under which the organizations are authorized to 55290  
provide, or arrange for the provision of, health care services to 55291  
medical assistance recipients ~~participating in a~~ who are required 55292  
or permitted to obtain health care services through managed care 55293  
organizations as part of the care management system established 55294  
under ~~this~~ section 5111.16 of the Revised Code. 55295

~~(C) For the purpose of determining the amount the department~~ 55296  
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 55297  
~~amount of disproportionate share hospital payments paid by the~~ 55298  
~~medicare program established under Title XVIII of the "Social~~ 55299

~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 55300  
each managed care organization under contract with the department 55301  
to provide hospital services to participating medical assistance 55302  
recipients shall keep detailed records for each hospital with 55303  
which it contracts about the cost to the hospital of providing the 55304  
care, payments made by the organization to the hospital for the 55305  
care, utilization of hospital services by medical assistance 55306  
recipients participating in managed care, and other utilization 55307  
data required by the department. 55308~~

~~(D)~~(B) The director of job and family services may adopt 55309  
rules in accordance with Chapter 119. of the Revised Code to 55310  
implement this section. 55311

**Sec. 5111.171.** (A) The department of job and family services 55312  
may provide financial incentive awards to managed care 55313  
organizations ~~that~~ under contract with the department ~~under~~ 55314  
pursuant to section 5111.17 of the Revised Code ~~to provide health 55315  
care services to participating medical assistance recipients and 55316~~  
that meet or exceed performance standards specified in provider 55317  
agreements or rules adopted by the department. The department may 55318  
specify in a contract with a managed care organization the amounts 55319  
of financial incentive awards, methodology for distributing 55320  
awards, types of awards, and standards for administration by the 55321  
department. 55322

(B) There is hereby created in the state treasury the health 55323  
care compliance fund. The fund shall consist of all fines imposed 55324  
on and collected from managed care organizations for failure to 55325  
~~nmeet~~ meet performance standards or other requirements specified 55326  
in provider agreements or rules adopted by the department. All 55327  
investment earnings of the fund shall be credited to the fund. 55328  
Moneys credited to the fund shall be used solely for the following 55329  
purposes: 55330

(1) To reimburse managed care organizations that have paid 55331  
fines for failures to meet performance standards or other 55332  
requirements and that have come into compliance by meeting 55333  
requirements as specified by the department; 55334

(2) To provide financial incentive awards established 55335  
pursuant to division (A) of this section and specified in 55336  
contracts between managed care organizations and the department. 55337

Sec. 5111.172. When contracting under section 5111.17 of the 55338  
Revised Code with a managed care organization that is a health 55339  
insuring corporation, the department of job and family services 55340  
may require the health insuring corporation to provide coverage of 55341  
prescription drugs for medicaid recipients enrolled in the health 55342  
insuring corporation. In providing the required coverage, the 55343  
health insuring corporation may, subject to the department's 55344  
approval, use strategies for the management of drug utilization. 55345

Sec. 5111.173. The department of job and family services 55346  
shall appoint a temporary manager for a managed care organization 55347  
under contract with the department pursuant to section 5111.17 of 55348  
the Revised Code if the department determines that the managed 55349  
care organization has repeatedly failed to meet substantive 55350  
requirements specified in section 1903(m) of the "Social Security 55351  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 55352  
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 55353  
42 C.F.R. 438 Part I. The appointment of a temporary manager does 55354  
not preclude the department from imposing other sanctions 55355  
available to the department against the managed care organization. 55356

The managed care organization shall pay all costs of having 55357  
the temporary manager perform the temporary manager's duties, 55358  
including all costs the temporary manager incurs in performing 55359  
those duties. If the temporary manager incurs costs or liabilities 55360

on behalf of the managed care organization, the managed care 55361  
organization shall pay those costs and be responsible for those 55362  
liabilities. 55363

The appointment of a temporary manager is not subject to 55364  
Chapter 119. of the Revised Code, but the managed care 55365  
organization may request a reconsideration of the appointment. 55366  
Reconsiderations shall be requested and conducted in accordance 55367  
with rules the director of job and family services shall adopt in 55368  
accordance with Chapter 119. of the Revised Code. 55369

The appointment of a temporary manager does not cause the 55370  
managed care organization to lose the right to appeal, in 55371  
accordance with Chapter 119. of the Revised Code, any proposed 55372  
termination or any decision not to renew the managed care 55373  
organization's medicaid provider agreement or the right to 55374  
initiate the sale of the managed care organization or its assets. 55375

In addition to the rules required to be adopted under this 55376  
section, the director may adopt any other rules necessary to 55377  
implement this section. The rules shall be adopted in accordance 55378  
with Chapter 119. of the Revised Code. 55379

**Sec. 5111.174.** The department of job and family services may 55380  
disenroll some or all medicaid recipients enrolled in a managed 55381  
care organization under contract with the department pursuant to 55382  
section 5111.17 of the Revised Code if the department proposes to 55383  
terminate or not to renew the contract and determines that the 55384  
recipients' access to medically necessary services is jeopardized 55385  
by the proposal to terminate or not to renew the contract. The 55386  
disenrollment is not subject to Chapter 119. of the Revised Code, 55387  
but the managed care organization may request a reconsideration of 55388  
the disenrollment. Reconsiderations shall be requested and 55389  
conducted in accordance with rules the director of job and family 55390  
services shall adopt in accordance with Chapter 119. of the 55391

Revised Code. The request for, or conduct of, a reconsideration 55392  
regarding a proposed disenrollment shall not delay the 55393  
disenrollment. 55394

In addition to the rules required to be adopted under this 55395  
section, the director may adopt any other rules necessary to 55396  
implement this section. The rules shall be adopted in accordance 55397  
with Chapter 119. of the Revised Code. 55398

Sec. 5111.175. For the purpose of determining the amount the 55399  
department of job and family services pays hospitals under section 55400  
5112.08 of the Revised Code and the amount of disproportionate 55401  
share hospital payments paid by the medicare program established 55402  
under Title XVIII of the "Social Security Act," 79 Stat. 286 55403  
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 55404  
under contract with the department pursuant to section 5111.17 of 55405  
the Revised Code authorizing the organization to provide, or 55406  
arrange for the provision of, hospital services to medicaid 55407  
recipients shall keep detailed records for each hospital with 55408  
which it contracts about the cost to the hospital of providing the 55409  
services, payments made by the organization to the hospital for 55410  
the services, utilization of hospital services by medicaid 55411  
recipients enrolled in the organization, and other utilization 55412  
data required by the department. 55413

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 55414  
of the Revised Code: 55415

(A) "Allowable costs" are those costs determined by the 55416  
department of job and family services to be reasonable and do not 55417  
include fines paid under sections 5111.35 to 5111.61 and section 55418  
5111.99 of the Revised Code. 55419

(B) "Capital costs" means costs of ownership and nonextensive 55420  
renovation. 55421

(1) "Cost of ownership" means the actual expense incurred for	55422
all of the following:	55423
(a) Depreciation and interest on any capital assets that cost	55424
five hundred dollars or more per item, including the following:	55425
(i) Buildings;	55426
(ii) Building improvements that are not approved as	55427
nonextensive renovations under section 5111.25 or 5111.251 of the	55428
Revised Code;	55429
(iii) Equipment;	55430
(iv) Extensive renovations;	55431
(v) Transportation equipment.	55432
(b) Amortization and interest on land improvements and	55433
leasehold improvements;	55434
(c) Amortization of financing costs;	55435
(d) Except as provided in division (I) of this section, lease	55436
and rent of land, building, and equipment.	55437
The costs of capital assets of less than five hundred dollars	55438
per item may be considered costs of ownership in accordance with a	55439
provider's practice.	55440
(2) "Costs of nonextensive renovation" means the actual	55441
expense incurred for depreciation or amortization and interest on	55442
renovations that are not extensive renovations.	55443
(C) "Capital lease" and "operating lease" shall be construed	55444
in accordance with generally accepted accounting principles.	55445
(D) "Case-mix score" means the measure determined under	55446
section 5111.231 of the Revised Code of the relative direct-care	55447
resources needed to provide care and habilitation to a resident of	55448
a nursing facility or intermediate care facility for the mentally	55449
retarded.	55450

(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;	55482 55483
(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;	55484 55485 55486 55487 55488 55489 55490 55491
(c) Costs of purchased nursing services;	55492
(d) Costs of quality assurance;	55493
(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;	55494 55495 55496 55497 55498 55499
(f) Costs of consulting and management fees related to direct care;	55500 55501
(g) Allocated direct care home office costs.	55502
(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:	55503 55504 55505
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;	55506 55507 55508
(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	55509 55510 55511

rules adopted by the director of job and family services in 55512  
accordance with Chapter 119. of the Revised Code, for personnel 55513  
listed in division (G)(2)(a) of this section. 55514

(3) Costs of other direct-care resources that are specified 55515  
as direct care costs in rules adopted by the director of job and 55516  
family services in accordance with Chapter 119. of the Revised 55517  
Code. 55518

(H) "Fiscal year" means the fiscal year of this state, as 55519  
specified in section 9.34 of the Revised Code. 55520

(I) "Indirect care costs" means all reasonable costs other 55521  
than direct care costs, other protected costs, or capital costs. 55522  
"Indirect care costs" includes but is not limited to costs of 55523  
habilitation supplies, pharmacy consultants, medical and 55524  
habilitation records, program supplies, incontinence supplies, 55525  
food, enterals, dietary supplies and personnel, laundry, 55526  
housekeeping, security, administration, liability insurance, 55527  
bookkeeping, purchasing department, human resources, 55528  
communications, travel, dues, license fees, subscriptions, home 55529  
office costs not otherwise allocated, legal services, accounting 55530  
services, minor equipment, maintenance and repairs, help-wanted 55531  
advertising, informational advertising, consumer satisfaction 55532  
survey fees paid under section 173.55 of the Revised Code, 55533  
start-up costs, organizational expenses, other interest, property 55534  
insurance, employee training and staff development, employee 55535  
benefits, payroll taxes, and workers' compensation premiums or 55536  
costs for self-insurance claims and related costs as specified in 55537  
rules adopted by the director of job and family services in 55538  
accordance with Chapter 119. of the Revised Code, for personnel 55539  
listed in this division. Notwithstanding division (B)(1) of this 55540  
section, "indirect care costs" also means the cost of equipment, 55541  
including vehicles, acquired by operating lease executed before 55542  
December 1, 1992, if the costs are reported as administrative and 55543

general costs on the facility's cost report for the cost reporting 55544  
period ending December 31, 1992. 55545

(J) "Inpatient days" means all days during which a resident, 55546  
regardless of payment source, occupies a bed in a nursing facility 55547  
or intermediate care facility for the mentally retarded that is 55548  
included in the facility's certified capacity under Title XIX of 55549  
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 55550  
as amended. Therapeutic or hospital leave days for which payment 55551  
is made under section 5111.33 of the Revised Code are considered 55552  
inpatient days proportionate to the percentage of the facility's 55553  
per resident per day rate paid for those days. 55554

(K) "Intermediate care facility for the mentally retarded" 55555  
means an intermediate care facility for the mentally retarded 55556  
certified as in compliance with applicable standards for the 55557  
medical assistance program by the director of health in accordance 55558  
with Title XIX of the "Social Security Act." 55559

(L) "Maintenance and repair expenses" means, except as 55560  
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 55561  
are necessary and proper to maintain an asset in a normally 55562  
efficient working condition and that do not extend the useful life 55563  
of the asset two years or more. "Maintenance and repair expenses" 55564  
includes but is not limited to the cost of ordinary repairs such 55565  
as painting and wallpapering. 55566

(M) "Nursing facility" means a facility, or a distinct part 55567  
of a facility, that is certified as a nursing facility by the 55568  
director of health in accordance with Title XIX of the "Social 55569  
Security Act," and is not an intermediate care facility for the 55570  
mentally retarded. "Nursing facility" includes a facility, or a 55571  
distinct part of a facility, that is certified as a nursing 55572  
facility by the director of health in accordance with Title XIX of 55573  
the "Social Security Act," and is certified as a skilled nursing 55574  
facility by the director in accordance with Title XVIII of the 55575

"Social Security Act." 55576

(N) "Operator" means the person or government entity 55577  
responsible for the daily operating and management decisions for a 55578  
nursing facility or intermediate care facility for the mentally 55579  
retarded. 55580

(O) "Other protected costs" means costs for medical supplies; 55581  
real estate, franchise, and property taxes; natural gas, fuel oil, 55582  
water, electricity, sewage, and refuse and hazardous medical waste 55583  
collection; allocated other protected home office costs; and any 55584  
additional costs defined as other protected costs in rules adopted 55585  
by the director of job and family services in accordance with 55586  
Chapter 119. of the Revised Code. 55587

~~(O)~~(P) "Owner" means any person or government entity that has 55588  
at least five per cent ownership or interest, either directly, 55589  
indirectly, or in any combination, in any of the following 55590  
regarding a nursing facility or intermediate care facility for the 55591  
mentally retarded: 55592

(a) The land on which the facility is located; 55593

(b) The structure in which the facility is located; 55594

(c) Any mortgage, contract for deed, or other obligation 55595  
secured in whole or in part by the land or structure on or in 55596  
which the facility is located; 55597

(d) Any lease or sublease of the land or structure on or in 55598  
which the facility is located. 55599

(2) "Owner" does not mean a holder of a debenture or bond 55600  
related to the nursing facility or intermediate care facility for 55601  
the mentally retarded and purchased at public issue or a regulated 55602  
lender that has made a loan related to the facility unless the 55603  
holder or lender operates the facility directly or through a 55604  
subsidiary. 55605

~~(P)~~(Q) "Patient" includes "resident." 55606

~~(Q)~~(R) Except as provided in divisions ~~(Q)~~(R)(1) and (2) of 55607  
this section, "per diem" means a nursing facility's or 55608  
intermediate care facility for the mentally retarded's actual, 55609  
allowable costs in a given cost center in a cost reporting period, 55610  
divided by the facility's inpatient days for that cost reporting 55611  
period. 55612

(1) When calculating indirect care costs for the purpose of 55613  
establishing rates under section 5111.24 or 5111.241 of the 55614  
Revised Code, "per diem" means a facility's actual, allowable 55615  
indirect care costs in a cost reporting period divided by the 55616  
greater of the facility's inpatient days for that period or the 55617  
number of inpatient days the facility would have had during that 55618  
period if its occupancy rate had been eighty-five per cent. 55619

(2) When calculating capital costs for the purpose of 55620  
establishing rates under section 5111.25 or 5111.251 of the 55621  
Revised Code, "per diem" means a facility's actual, allowable 55622  
capital costs in a cost reporting period divided by the greater of 55623  
the facility's inpatient days for that period or the number of 55624  
inpatient days the facility would have had during that period if 55625  
its occupancy rate had been ninety-five per cent. 55626

~~(R)~~(S) "Provider" means a person or government entity that 55627  
operates a nursing facility or intermediate care facility for the 55628  
mentally retarded under a provider agreement. 55629

~~(S)~~(T) "Provider agreement" means a contract between the 55630  
department of job and family services and a nursing facility or 55631  
intermediate care facility for the mentally retarded for the 55632  
provision of nursing facility services or intermediate care 55633  
facility services for the mentally retarded under the medical 55634  
assistance program. 55635

~~(T)~~(U) "Purchased nursing services" means services that are 55636

provided in a nursing facility by registered nurses, licensed 55637  
practical nurses, or nurse aides who are not employees of the 55638  
facility. 55639

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 55640  
is appropriate and helpful to develop and maintain the operation 55641  
of patient care facilities and activities, including normal 55642  
standby costs, and that does not exceed what a prudent buyer pays 55643  
for a given item or services. Reasonable costs may vary from 55644  
provider to provider and from time to time for the same provider. 55645

~~(V)~~(W) "Related party" means an individual or organization 55646  
that, to a significant extent, has common ownership with, is 55647  
associated or affiliated with, has control of, or is controlled 55648  
by, the provider. 55649

(1) An individual who is a relative of an owner is a related 55650  
party. 55651

(2) Common ownership exists when an individual or individuals 55652  
possess significant ownership or equity in both the provider and 55653  
the other organization. Significant ownership or equity exists 55654  
when an individual or individuals possess five per cent ownership 55655  
or equity in both the provider and a supplier. Significant 55656  
ownership or equity is presumed to exist when an individual or 55657  
individuals possess ten per cent ownership or equity in both the 55658  
provider and another organization from which the provider 55659  
purchases or leases real property. 55660

(3) Control exists when an individual or organization has the 55661  
power, directly or indirectly, to significantly influence or 55662  
direct the actions or policies of an organization. 55663

(4) An individual or organization that supplies goods or 55664  
services to a provider shall not be considered a related party if 55665  
all of the following conditions are met: 55666

(a) The supplier is a separate bona fide organization. 55667

(b) A substantial part of the supplier's business activity of 55668  
the type carried on with the provider is transacted with others 55669  
than the provider and there is an open, competitive market for the 55670  
types of goods or services the supplier furnishes. 55671

(c) The types of goods or services are commonly obtained by 55672  
other nursing facilities or intermediate care facilities for the 55673  
mentally retarded from outside organizations and are not a basic 55674  
element of patient care ordinarily furnished directly to patients 55675  
by the facilities. 55676

(d) The charge to the provider is in line with the charge for 55677  
the goods or services in the open market and no more than the 55678  
charge made under comparable circumstances to others by the 55679  
supplier. 55680

~~(W)~~(X) "Relative of owner" means an individual who is related 55681  
to an owner of a nursing facility or intermediate care facility 55682  
for the mentally retarded by one of the following relationships: 55683

(1) Spouse; 55684

(2) Natural parent, child, or sibling; 55685

(3) Adopted parent, child, or sibling; 55686

(4) Step-parent, step-child, step-brother, or step-sister; 55687

(5) Father-in-law, mother-in-law, son-in-law, 55688  
daughter-in-law, brother-in-law, or sister-in-law; 55689

(6) Grandparent or grandchild; 55690

(7) Foster caregiver, foster child, foster brother, or foster 55691  
sister. 55692

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 55693

(1) Any betterment, improvement, or restoration of a nursing 55694  
facility or intermediate care facility for the mentally retarded 55695  
started before July 1, 1993, that meets the definition of a 55696

renovation or extensive renovation established in rules adopted by 55697  
the director of job and family services in effect on December 22, 55698  
1992. 55699

(2) In the case of betterments, improvements, and 55700  
restorations of nursing facilities and intermediate care 55701  
facilities for the mentally retarded started on or after July 1, 55702  
1993: 55703

(a) "Renovation" means the betterment, improvement, or 55704  
restoration of a nursing facility or intermediate care facility 55705  
for the mentally retarded beyond its current functional capacity 55706  
through a structural change that costs at least five hundred 55707  
dollars per bed. A renovation may include betterment, improvement, 55708  
restoration, or replacement of assets that are affixed to the 55709  
building and have a useful life of at least five years. A 55710  
renovation may include costs that otherwise would be considered 55711  
maintenance and repair expenses if they are an integral part of 55712  
the structural change that makes up the renovation project. 55713  
"Renovation" does not mean construction of additional space for 55714  
beds that will be added to a facility's licensed or certified 55715  
capacity. 55716

(b) "Extensive renovation" means a renovation that costs more 55717  
than sixty-five per cent and no more than eighty-five per cent of 55718  
the cost of constructing a new bed and that extends the useful 55719  
life of the assets for at least ten years. 55720

For the purposes of division ~~(X)~~(Y)(2) of this section, the 55721  
cost of constructing a new bed shall be considered to be forty 55722  
thousand dollars, adjusted for the estimated rate of inflation 55723  
from January 1, 1993, to the end of the calendar year during which 55724  
the renovation is completed, using the consumer price index for 55725  
shelter costs for all urban consumers for the north central 55726  
region, as published by the United States bureau of labor 55727  
statistics. 55728

The department of job and family services may treat a 55729  
renovation that costs more than eighty-five per cent of the cost 55730  
of constructing new beds as an extensive renovation if the 55731  
department determines that the renovation is more prudent than 55732  
construction of new beds. 55733

Sec. 5111.206. (A) As used in this section, "nursing 55734  
facility" has the same meaning as in section 5111.20 of the 55735  
Revised Code. 55736

(B) To the extent funds are available, the director of job 55737  
and family services may establish the Ohio access success project 55738  
to help medicaid recipients make the transition from residing in a 55739  
nursing facility to residing in a community setting. The program 55740  
may be established as a separate non-medicaid program or 55741  
integrated into a new or existing Medicaid home and 55742  
community-based services program established under a waiver 55743  
approved by the federal centers for medicare and medicaid 55744  
services. The department may limit the number of program 55745  
participants. 55746

To be eligible for benefits under the project, a medicaid 55747  
recipient must satisfy all of the following requirements: 55748

(1) Be a recipient of medicaid-funded nursing facility care, 55749  
at the time of applying for the benefits; 55750

(2) Have resided continuously in a nursing facility since 55751  
January 1, 2002; 55752

(3) Need the level of care provided by nursing facilities; 55753

(4) For participation in a non-medicaid program, receive 55754  
services to remain in the community with a projected cost not 55755  
exceeding eighty per cent of the average monthly medicaid cost of 55756  
a medicaid recipient in a nursing facility; 55757

(5) For participation in a program established under a home 55758

and community-based services waiver, meet waiver enrollment criteria. 55759  
55760

(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following: 55761  
55762  
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(1) The first month's rent in a community setting; 55764

(2) Rental deposits; 55765

(3) Utility deposits; 55766

(4) Moving expenses; 55767

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting. 55768  
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(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project. 55771  
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(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver programs to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program. 55774  
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**Sec. 5111.21.** (A) Subject to sections 5111.01, 5111.011, 5111.012, ~~and~~ 5111.02, and 5111.6810 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded. 55782  
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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. 55819

~~(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.~~ 55820  
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(B) The ~~provider~~ operator agrees to: 55829

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code; 55830  
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(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; 55832  
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(3) File reports as required by the department; 55837

(4) Open all records relating to the costs of its services for inspection and audit by the department; 55838  
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(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect; 55840  
55841  
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(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; 55843  
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(7) Comply with section 5111.31 of the Revised Code. 55846

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department. 55847  
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A provider agreement shall be effective for no longer than 55849  
twelve months, except that if federal statute or regulations 55850  
authorize a longer term, it may be effective for a longer term so 55851  
authorized. A provider agreement may be renewed only if the 55852  
facility is certified by the department of health for 55853  
participation in the medicaid program. 55854

The department of job and family services, in accordance with 55855  
rules adopted by the director pursuant to Chapter 119. of the 55856  
Revised Code, may elect not to enter into, not to renew, or to 55857  
terminate a provider agreement when the department determines that 55858  
such an agreement would not be in the best interests of the 55859  
recipients or of the state. 55860

Sec. 5111.222. An operator of a nursing facility or 55861  
intermediate care facility for the mentally retarded may enter 55862  
into provider agreements for more than one nursing facility or 55863  
intermediate care facility for the mentally retarded. 55864

**Sec. 5111.25.** (A) The department of job and family services 55865  
shall pay each eligible nursing facility a per resident per day 55866  
rate for its reasonable capital costs established prospectively 55867  
each fiscal year for each facility. Except as otherwise provided 55868  
in sections 5111.20 to 5111.32 of the Revised Code, the rate shall 55869  
be based on the facility's capital costs for the calendar year 55870  
preceding the fiscal year in which the rate will be paid. The rate 55871  
shall equal the sum of divisions (A)(1) to (3) of this section: 55872

(1) The lesser of the following: 55873

(a) Eighty-eight and sixty-five one-hundredths per cent of 55874  
the facility's desk-reviewed, actual, allowable, per diem cost of 55875  
ownership and eighty-five per cent of the facility's actual, 55876  
allowable, per diem cost of nonextensive renovation determined 55877  
under division (F) of this section; 55878

(b) Eighty-eight and sixty-five one-hundredths per cent of 55879  
the following limitation: 55880

(i) For the fiscal year beginning July 1, 1993, sixteen 55881  
dollars per resident day; 55882

(ii) For the fiscal year beginning July 1, 1994, sixteen 55883  
dollars per resident day, adjusted to reflect the rate of 55884  
inflation for the twelve-month period beginning July 1, 1992, and 55885  
ending June 30, 1993, using the consumer price index for shelter 55886  
costs for all urban consumers for the north central region, 55887  
published by the United States bureau of labor statistics; 55888

(iii) For subsequent fiscal years, the limitation in effect 55889  
during the previous fiscal year, adjusted to reflect the rate of 55890  
inflation for the twelve-month period beginning on the first day 55891  
of July for the calendar year preceding the calendar year that 55892  
precedes the fiscal year and ending on the following thirtieth day 55893  
of June, using the consumer price index for shelter costs for all 55894  
urban consumers for the north central region, published by the 55895  
United States bureau of labor statistics. 55896

(2) Any efficiency incentive determined under division (D) of 55897  
this section; 55898

(3) Any amounts for return on equity determined under 55899  
division (H) of this section. 55900

Buildings shall be depreciated using the straight line method 55901  
over forty years or over a different period approved by the 55902  
department. Components and equipment shall be depreciated using 55903  
the straight-line method over a period designated in rules adopted 55904  
by the director of job and family services in accordance with 55905  
Chapter 119. of the Revised Code, consistent with the guidelines 55906  
of the American hospital association, or over a different period 55907  
approved by the department. Any rules adopted under this division 55908  
that specify useful lives of buildings, components, or equipment 55909

apply only to assets acquired on or after July 1, 1993. 55910  
Depreciation for costs paid or reimbursed by any government agency 55911  
shall not be included in cost of ownership or renovation unless 55912  
that part of the payment under sections 5111.20 to 5111.32 of the 55913  
Revised Code is used to reimburse the government agency. 55914

(B) The capital cost basis of nursing facility assets shall 55915  
be determined in the following manner: 55916

(1) For purposes of calculating the rate to be paid for the 55917  
fiscal year beginning July 1, 1993, for facilities with dates of 55918  
licensure on or before June 30, 1993, the capital cost basis shall 55919  
be equal to the following: 55920

(a) For facilities that have not had a change of ownership 55921  
during the period beginning January 1, 1993, and ending June 30, 55922  
1993, the desk-reviewed, actual, allowable capital cost basis that 55923  
is listed on the facility's cost report for the cost reporting 55924  
period ending December 31, 1992, plus the actual, allowable 55925  
capital cost basis of any assets constructed or acquired after 55926  
December 31, 1992, but before July 1, 1993, if the aggregate 55927  
capital costs of those assets would increase the facility's rate 55928  
for capital costs by twenty or more cents per resident per day. 55929

(b) For facilities that have a date of licensure or had a 55930  
change of ownership during the period beginning January 1, 1993, 55931  
and ending June 30, 1993, the actual, allowable capital cost basis 55932  
of the person or government entity that owns the facility on June 55933  
30, 1993. 55934

Capital cost basis shall be calculated as provided in 55935  
division (B)(1) of this section subject to approval by the United 55936  
States health care financing administration of any necessary 55937  
amendment to the state plan for providing medical assistance. 55938

The department shall include the actual, allowable capital 55939  
cost basis of assets constructed or acquired during the period 55940

beginning January 1, 1993, and ending June 30, 1993, in the 55941  
calculation for the facility's rate effective July 1, 1993, if the 55942  
aggregate capital costs of the assets would increase the 55943  
facility's rate by twenty or more cents per resident per day and 55944  
the facility provides the department with sufficient documentation 55945  
of the costs before June 1, 1993. If the facility provides the 55946  
documentation after that date, the department shall adjust the 55947  
facility's rate to reflect the costs of the assets one month after 55948  
the first day of the month after the department receives the 55949  
documentation. 55950

(2) Except as provided in division (B)(4) of this section, 55951  
for purposes of calculating the rates to be paid for fiscal years 55952  
beginning after June 30, 1994, for facilities with dates of 55953  
licensure on or before June 30, 1993, the capital cost basis of 55954  
each asset shall be equal to the desk-reviewed, actual, allowable, 55955  
capital cost basis that is listed on the facility's cost report 55956  
for the calendar year preceding the fiscal year during which the 55957  
rate will be paid. 55958

(3) For facilities with dates of licensure after June 30, 55959  
1993, the capital cost basis shall be determined in accordance 55960  
with the principles of the medicare program established under 55961  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 55962  
U.S.C.A. 301, as amended, except as otherwise provided in sections 55963  
5111.20 to 5111.32 of the Revised Code. 55964

(4) Except as provided in division (B)(5) of this section, if 55965  
a provider transfers an interest in a facility to another provider 55966  
after June 30, 1993, there shall be no increase in the capital 55967  
cost basis of the asset if the providers are related parties. If 55968  
the providers are not related parties or if they are related 55969  
parties and division (B)(5) of this section requires the 55970  
adjustment of the capital cost basis under this division, the 55971  
basis of the asset shall be adjusted by the lesser of the 55972

following: 55973

(a) One-half of the change in construction costs during the 55974  
time that the transferor held the asset, as calculated by the 55975  
department of job and family services using the "Dodge building 55976  
cost indexes, northeastern and north central states," published by 55977  
Marshall and Swift; 55978

(b) One-half of the change in the consumer price index for 55979  
all items for all urban consumers, as published by the United 55980  
States bureau of labor statistics, during the time that the 55981  
transferor held the asset. 55982

(5) If a provider transfers an interest in a facility to 55983  
another provider who is a related party, the capital cost basis of 55984  
the asset shall be adjusted as specified in division (B)(4) of 55985  
this section for a transfer to a provider that is not a related 55986  
party if all of the following conditions are met: 55987

(a) The related party is a relative of owner; 55988

(b) Except as provided in division (B)(5)(c)(ii) of this 55989  
section, the provider making the transfer retains no ownership 55990  
interest in the facility; 55991

(c) The department of job and family services determines that 55992  
the transfer is an arm's length transaction pursuant to rules the 55993  
department shall adopt in accordance with Chapter 119. of the 55994  
Revised Code no later than December 31, 2000. The rules shall 55995  
provide that a transfer is an arm's length transaction if all of 55996  
the following apply: 55997

(i) Once the transfer goes into effect, the provider that 55998  
made the transfer has no direct or indirect interest in the 55999  
provider that acquires the facility or the facility itself, 56000  
including interest as an owner, officer, director, employee, 56001  
independent contractor, or consultant, but excluding interest as a 56002  
creditor. 56003

(ii) The provider that made the transfer does not reacquire 56004  
an interest in the facility except through the exercise of a 56005  
creditor's rights in the event of a default. If the provider 56006  
reacquires an interest in the facility in this manner, the 56007  
department shall treat the facility as if the transfer never 56008  
occurred when the department calculates its reimbursement rates 56009  
for capital costs. 56010

(iii) The transfer satisfies any other criteria specified in 56011  
the rules. 56012

(d) Except in the case of hardship caused by a catastrophic 56013  
event, as determined by the department, or in the case of a 56014  
provider making the transfer who is at least sixty-five years of 56015  
age, not less than twenty years have elapsed since, for the same 56016  
facility, the capital cost basis was adjusted most recently under 56017  
division (B)(5) of this section or actual, allowable cost of 56018  
ownership was determined most recently under division (C)(9) of 56019  
this section. 56020

(C) As used in this division, "lease expense" means lease 56021  
payments in the case of an operating lease and depreciation 56022  
expense and interest expense in the case of a capital lease. As 56023  
used in this division, "new lease" means a lease, to a different 56024  
lessee, of a nursing facility that previously was operated under a 56025  
lease. 56026

(1) Subject to the limitation specified in division (A)(1) of 56027  
this section, for a lease of a facility that was effective on May 56028  
27, 1992, the entire lease expense is an actual, allowable cost of 56029  
ownership during the term of the existing lease. The entire lease 56030  
expense also is an actual, allowable cost of ownership if a lease 56031  
in existence on May 27, 1992, is renewed under either of the 56032  
following circumstances: 56033

(a) The renewal is pursuant to a renewal option that was in 56034

existence on May 27, 1992; 56035

(b) The renewal is for the same lease payment amount and 56036  
between the same parties as the lease in existence on May 27, 56037  
1992. 56038

(2) Subject to the limitation specified in division (A)(1) of 56039  
this section, for a lease of a facility that was in existence but 56040  
not operated under a lease on May 27, 1992, actual, allowable cost 56041  
of ownership shall include the lesser of the annual lease expense 56042  
or the annual depreciation expense and imputed interest expense 56043  
that would be calculated at the inception of the lease using the 56044  
lessor's entire historical capital asset cost basis, adjusted by 56045  
the lesser of the following amounts: 56046

(a) One-half of the change in construction costs during the 56047  
time the lessor held each asset until the beginning of the lease, 56048  
as calculated by the department using the "Dodge building cost 56049  
indexes, northeastern and north central states," published by 56050  
Marshall and Swift; 56051

(b) One-half of the change in the consumer price index for 56052  
all items for all urban consumers, as published by the United 56053  
States bureau of labor statistics, during the time the lessor held 56054  
each asset until the beginning of the lease. 56055

(3) Subject to the limitation specified in division (A)(1) of 56056  
this section, for a lease of a facility with a date of licensure 56057  
on or after May 27, 1992, that is initially operated under a 56058  
lease, actual, allowable cost of ownership shall include the 56059  
annual lease expense if there was a substantial commitment of 56060  
money for construction of the facility after December 22, 1992, 56061  
and before July 1, 1993. If there was not a substantial commitment 56062  
of money after December 22, 1992, and before July 1, 1993, actual, 56063  
allowable cost of ownership shall include the lesser of the annual 56064  
lease expense or the sum of the following: 56065

(a) The annual depreciation expense that would be calculated 56066  
at the inception of the lease using the lessor's entire historical 56067  
capital asset cost basis; 56068

(b) The greater of the lessor's actual annual amortization of 56069  
financing costs and interest expense at the inception of the lease 56070  
or the imputed interest expense calculated at the inception of the 56071  
lease using seventy per cent of the lessor's historical capital 56072  
asset cost basis. 56073

(4) Subject to the limitation specified in division (A)(1) of 56074  
this section, for a lease of a facility with a date of licensure 56075  
on or after May 27, 1992, that was not initially operated under a 56076  
lease and has been in existence for ten years, actual, allowable 56077  
cost of ownership shall include the lesser of the annual lease 56078  
expense or the annual depreciation expense and imputed interest 56079  
expense that would be calculated at the inception of the lease 56080  
using the entire historical capital asset cost basis of the 56081  
lessor, adjusted by the lesser of the following: 56082

(a) One-half of the change in construction costs during the 56083  
time the lessor held each asset until the beginning of the lease, 56084  
as calculated by the department using the "Dodge building cost 56085  
indexes, northeastern and north central states," published by 56086  
Marshall and Swift; 56087

(b) One-half of the change in the consumer price index for 56088  
all items for all urban consumers, as published by the United 56089  
States bureau of labor statistics, during the time the lessor held 56090  
each asset until the beginning of the lease. 56091

(5) Subject to the limitation specified in division (A)(1) of 56092  
this section, for a new lease of a facility that was operated 56093  
under a lease on May 27, 1992, actual, allowable cost of ownership 56094  
shall include the lesser of the annual new lease expense or the 56095  
annual old lease payment. If the old lease was in effect for ten 56096

years or longer, the old lease payment from the beginning of the 56097  
old lease shall be adjusted by the lesser of the following: 56098

(a) One-half of the change in construction costs from the 56099  
beginning of the old lease to the beginning of the new lease, as 56100  
calculated by the department using the "Dodge building cost 56101  
indexes, northeastern and north central states," published by 56102  
Marshall and Swift; 56103

(b) One-half of the change in the consumer price index for 56104  
all items for all urban consumers, as published by the United 56105  
States bureau of labor statistics, from the beginning of the old 56106  
lease to the beginning of the new lease. 56107

(6) Subject to the limitation specified in division (A)(1) of 56108  
this section, for a new lease of a facility that was not in 56109  
existence or that was in existence but not operated under a lease 56110  
on May 27, 1992, actual, allowable cost of ownership shall include 56111  
the lesser of annual new lease expense or the annual amount 56112  
calculated for the old lease under division (C)(2), (3), (4), or 56113  
(6) of this section, as applicable. If the old lease was in effect 56114  
for ten years or longer, the lessor's historical capital asset 56115  
cost basis shall be adjusted by the lesser of the following for 56116  
purposes of calculating the annual amount under division (C)(2), 56117  
(3), (4), or (6) of this section: 56118

(a) One-half of the change in construction costs from the 56119  
beginning of the old lease to the beginning of the new lease, as 56120  
calculated by the department using the "Dodge building cost 56121  
indexes, northeastern and north central states," published by 56122  
Marshall and Swift; 56123

(b) One-half of the change in the consumer price index for 56124  
all items for all urban consumers, as published by the United 56125  
States bureau of labor statistics, from the beginning of the old 56126  
lease to the beginning of the new lease. 56127

In the case of a lease under division (C)(3) of this section 56128  
of a facility for which a substantial commitment of money was made 56129  
after December 22, 1992, and before July 1, 1993, the old lease 56130  
payment shall be adjusted for the purpose of determining the 56131  
annual amount. 56132

(7) For any revision of a lease described in division (C)(1), 56133  
(2), (3), (4), (5), or (6) of this section, or for any subsequent 56134  
lease of a facility operated under such a lease, other than 56135  
execution of a new lease, the portion of actual, allowable cost of 56136  
ownership attributable to the lease shall be the same as before 56137  
the revision or subsequent lease. 56138

(8) Except as provided in division (C)(9) of this section, if 56139  
a provider leases an interest in a facility to another provider 56140  
who is a related party, the related party's actual, allowable cost 56141  
of ownership shall include the lesser of the annual lease expense 56142  
or the reasonable cost to the lessor. 56143

(9) If a provider leases an interest in a facility to another 56144  
provider who is a related party, regardless of the date of the 56145  
lease, the related party's actual, allowable cost of ownership 56146  
shall include the annual lease expense, subject to the limitations 56147  
specified in divisions (C)(1) to (7) of this section, if all of 56148  
the following conditions are met: 56149

(a) The related party is a relative of owner; 56150

(b) If the lessor retains an ownership interest, it is, 56151  
except as provided in division (C)(9)(c)(ii) of this section, in 56152  
only the real property and any improvements on the real property; 56153

(c) The department of job and family services determines that 56154  
the lease is an arm's length transaction pursuant to rules the 56155  
department shall adopt in accordance with Chapter 119. of the 56156  
Revised Code no later than December 31, 2000. The rules shall 56157  
provide that a lease is an arm's length transaction if all of the 56158

following apply: 56159

(i) Once the lease goes into effect, the lessor has no direct 56160  
or indirect interest in the lessee or, except as provided in 56161  
division (C)(9)(b) of this section, the facility itself, including 56162  
interest as an owner, officer, director, employee, independent 56163  
contractor, or consultant, but excluding interest as a lessor. 56164

(ii) The lessor does not reacquire an interest in the 56165  
facility except through the exercise of a lessor's rights in the 56166  
event of a default. If the lessor reacquires an interest in the 56167  
facility in this manner, the department shall treat the facility 56168  
as if the lease never occurred when the department calculates its 56169  
reimbursement rates for capital costs. 56170

(iii) The lease satisfies any other criteria specified in the 56171  
rules. 56172

(d) Except in the case of hardship caused by a catastrophic 56173  
event, as determined by the department, or in the case of a lessor 56174  
who is at least sixty-five years of age, not less than twenty 56175  
years have elapsed since, for the same facility, the capital cost 56176  
basis was adjusted most recently under division (B)(5) of this 56177  
section or actual, allowable cost of ownership was determined most 56178  
recently under division (C)(9) of this section. 56179

(10) This division does not apply to leases of specific items 56180  
of equipment. 56181

(D)(1) Subject to division (D)(2) of this section, the 56182  
department shall pay each nursing facility an efficiency incentive 56183  
that is equal to fifty per cent of the difference between the 56184  
following: 56185

(a) Eighty-eight and sixty-five one-hundredths per cent of 56186  
the facility's desk-reviewed, actual, allowable, per diem cost of 56187  
ownership; 56188

(b) The applicable amount specified in division (E) of this section. 56189  
56190

(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following: 56191  
56192

(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994; 56193  
56194

(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. 56195  
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(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. 56204  
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(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section: 56209  
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(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty-four cents per patient day; 56211  
56212

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968: 56213  
56214

(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; 56215  
56216  
56217

(b) Four dollars and twenty-four cents per patient day if the 56218

cost of construction was less than three thousand five hundred	56219
dollars per bed.	56220
(3) For facilities with dates of licensure after December 31,	56221
1967, but prior to January 1, 1976:	56222
(a) Six dollars and twenty-four cents per patient day if the	56223
cost of construction was five thousand one hundred fifty dollars	56224
or more per bed;	56225
(b) Five dollars and twenty-four cents per patient day if the	56226
cost of construction was less than five thousand one hundred fifty	56227
dollars per bed, but exceeded three thousand five hundred dollars	56228
per bed;	56229
(c) Four dollars and twenty-four cents per patient day if the	56230
cost of construction was three thousand five hundred dollars or	56231
less per bed.	56232
(4) For facilities with dates of licensure after December 31,	56233
1975, but prior to January 1, 1979:	56234
(a) Seven dollars and twenty-four cents per patient day if	56235
the cost of construction was six thousand eight hundred dollars or	56236
more per bed;	56237
(b) Six dollars and twenty-four cents per patient day if the	56238
cost of construction was less than six thousand eight hundred	56239
dollars per bed but exceeded five thousand one hundred fifty	56240
dollars per bed;	56241
(c) Five dollars and twenty-four cents per patient day if the	56242
cost of construction was five thousand one hundred fifty dollars	56243
or less per bed, but exceeded three thousand five hundred dollars	56244
per bed;	56245
(d) Four dollars and twenty-four cents per patient day if the	56246
cost of construction was three thousand five hundred dollars or	56247
less per bed.	56248

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:	56249
	56250
(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;	56251
	56252
	56253
(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;	56254
	56255
	56256
	56257
(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;	56258
	56259
	56260
	56261
(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;	56262
	56263
	56264
(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.	56265
	56266
	56267
(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:	56268
	56269
(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;	56270
	56271
	56272
	56273
(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:	56274
	56275
	56276
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	56278

(i) Adjust the amount for fluctuations in construction costs 56279  
calculated by the department using the "Dodge building cost 56280  
indexes, northeastern and north central states," published by 56281  
Marshall and Swift, using 1980 as the base year; 56282

(ii) Increase the amount, as adjusted for inflation under 56283  
division (E)(6)(b)(i) of this section, by one dollar and 56284  
seventy-four cents. 56285

(7) For facilities with dates of licensure on or after 56286  
January 1, 1992, seven dollars and ninety-seven cents, adjusted 56287  
for fluctuations in construction costs between 1991 and 1993 as 56288  
calculated by the department using the "Dodge building cost 56289  
indexes, northeastern and north central states," published by 56290  
Marshall and Swift, and then increased by one dollar and 56291  
seventy-four cents. 56292

For the fiscal year that begins July 1, 1994, each of the 56293  
amounts listed in divisions (E)(1) to (7) of this section shall be 56294  
increased by twenty-five cents. For the fiscal year that begins 56295  
July 1, 1995, each of those amounts shall be increased by an 56296  
additional twenty-five cents. For subsequent fiscal years, each of 56297  
those amounts, as increased for the prior fiscal year, shall be 56298  
adjusted to reflect the rate of inflation for the twelve-month 56299  
period beginning on the first day of July of the calendar year 56300  
preceding the calendar year that precedes the fiscal year and 56301  
ending on the following thirtieth day of June, using the consumer 56302  
price index for shelter costs for all urban consumers for the 56303  
north central region, as published by the United States bureau of 56304  
labor statistics. 56305

If the amount established for a nursing facility under this 56306  
division is less than the amount that applied to the facility 56307  
under division (B) of former section 5111.25 of the Revised Code, 56308  
as the former section existed immediately prior to December 22, 56309

1992, the amount used to calculate the efficiency incentive for 56310  
the facility under division (D)(2) of this section shall be the 56311  
amount that was calculated under division (B) of the former 56312  
section. 56313

(F) Beginning July 1, 1993, regardless of the facility's date 56314  
of licensure or the date of the nonextensive renovations, the rate 56315  
for the costs of nonextensive renovations for nursing facilities 56316  
shall be eighty-five per cent of the desk-reviewed, actual, 56317  
allowable, per diem, nonextensive renovation costs. This division 56318  
applies to nonextensive renovations regardless of whether they are 56319  
made by an owner or a lessee. If the tenancy of a lessee that has 56320  
made nonextensive renovations ends before the depreciation expense 56321  
for the renovation costs has been fully reported, the former 56322  
lessee shall not report the undepreciated balance as an expense. 56323

(1) For a nonextensive renovation made after July 1, 1993, to 56324  
qualify for payment under this division, both of the following 56325  
conditions must be met: 56326

(a) At least five years have elapsed since the date of 56327  
licensure of the portion of the facility that is proposed to be 56328  
renovated, except that this condition does not apply if the 56329  
renovation is necessary to meet the requirements of federal, 56330  
state, or local statutes, ordinances, rules, or policies. 56331

(b) The provider has obtained prior approval from the 56332  
department of job and family services, and if required the 56333  
director of health has granted a certificate of need for the 56334  
renovation under section 3702.52 of the Revised Code. The provider 56335  
shall submit a plan that describes in detail the changes in 56336  
capital assets to be accomplished by means of the renovation and 56337  
the timetable for completing the project. The time for completion 56338  
of the project shall be no more than eighteen months after the 56339  
renovation begins. The department of job and family services shall 56340  
adopt rules in accordance with Chapter 119. of the Revised Code 56341

that specify criteria and procedures for prior approval of 56342  
renovation projects. No provider shall separate a project with the 56343  
intent to evade the characterization of the project as a 56344  
renovation or as an extensive renovation. No provider shall 56345  
increase the scope of a project after it is approved by the 56346  
department of job and family services unless the increase in scope 56347  
is approved by the department. 56348

(2) The payment provided for in this division is the only 56349  
payment that shall be made for the costs of a nonextensive 56350  
renovation. Nonextensive renovation costs shall not be included in 56351  
costs of ownership, and a nonextensive renovation shall not affect 56352  
the date of licensure for purposes of calculating the efficiency 56353  
incentive under divisions (D) and (E) of this section. 56354

~~(G) The owner of a nursing facility operating under a 56355  
provider agreement shall provide written notice to the department 56356  
of job and family services at least forty five days prior to 56357  
entering into any contract of sale for the facility or voluntarily 56358  
terminating participation in the medical assistance program. After 56359  
the date on which a transaction of sale of a nursing facility is 56360  
closed, the owner shall refund to the department the amount of 56361  
excess depreciation paid to the facility by the department for 56362  
each year the owner has operated the facility under a provider 56363  
agreement and prorated according to the number of medicaid patient 56364  
days for which the facility has received payment. If a nursing 56365  
facility is sold after five or fewer years of operation under a 56366  
provider agreement, the refund to the department shall be equal to 56367  
the excess depreciation paid to the facility. If a nursing 56368  
facility is sold after more than five years but less than ten 56369  
years of operation under a provider agreement, the refund to the 56370  
department shall equal the excess depreciation paid to the 56371  
facility multiplied by twenty per cent, multiplied by the 56372  
difference between ten and the number of years that the facility 56373~~

was operated under a provider agreement. If a nursing facility is 56374  
sold after ten or more years of operation under a provider 56375  
agreement, the owner shall not refund any excess depreciation to 56376  
the department. The owner of a nursing facility that is sold or 56377  
that ~~voluntarily terminates~~ undergoes a voluntary withdrawal of 56378  
participation in the medical assistance program, as defined in 56379  
section 5111.65 of the Revised Code, also shall refund any other 56380  
amount that the department properly finds to be due after ~~the a~~ 56381  
final fiscal audit ~~conducted under this division~~ the department 56382  
shall conduct. For the purposes of this division, "depreciation 56383  
paid to the facility" means the amount paid to the nursing 56384  
facility for cost of ownership pursuant to this section less any 56385  
amount paid for interest costs, amortization of financing costs, 56386  
and lease expenses. For the purposes of this division, "excess 56387  
depreciation" is the nursing facility's depreciated basis, which 56388  
is the owner's cost less accumulated depreciation, subtracted from 56389  
the purchase price net of selling costs but not exceeding the 56390  
amount of depreciation paid to the facility. 56391

~~A cost report shall be filed with the department within~~ 56392  
~~ninety days after the date on which the transaction of sale is~~ 56393  
~~closed or participation is voluntarily terminated. The report~~ 56394  
~~shall show the accumulated depreciation, the sales price, and~~ 56395  
~~other information required by the department. The department shall~~ 56396  
~~provide for a bank, trust company, or savings and loan association~~ 56397  
~~to hold in escrow the amount of the last two monthly payments to a~~ 56398  
~~nursing facility made pursuant to division (A)(1) of section~~ 56399  
~~5111.22 of the Revised Code before a sale or termination of~~ 56400  
~~participation or, if the owner fails, within the time required by~~ 56401  
~~this division, to notify the department before entering into a~~ 56402  
~~contract of sale for the facility, the amount of the first two~~ 56403  
~~monthly payments made to the facility after the department learns~~ 56404  
~~of the contract, regardless of whether a new owner is in~~ 56405  
~~possession of the facility. If the amount the owner will be~~ 56406

~~required to refund under this section is likely to be less than 56407  
the amount of the two monthly payments otherwise put into escrow 56408  
under this division, the department shall take one of the 56409  
following actions instead of withholding the amount of the two 56410  
monthly payments: 56411~~

~~(1) In the case of an owner that owns other facilities that 56412  
participate in the medical assistance program, obtain a promissory 56413  
note in an amount sufficient to cover the amount likely to be 56414  
refunded; 56415~~

~~(2) In the case of all other owners, withhold the amount of 56416  
the last monthly payment to the nursing facility or, if the owner 56417  
fails, within the time required by this division, to notify the 56418  
department before entering into a contract of sale for the 56419  
facility, the amount of the first monthly payment made to the 56420  
facility after the department learns of the contract, regardless 56421  
of whether a new owner is in possession of the facility. 56422~~

~~The department shall, within ninety days following the filing 56423  
of the cost report, audit the cost report and issue an audit 56424  
report to the owner. The department also may audit any other cost 56425  
report that the facility has filed during the previous three 56426  
years. In the audit report, the department shall state its 56427  
findings and the amount of any money owed to the department by the 56428  
nursing facility. The findings shall be subject to adjudication 56429  
conducted in accordance with Chapter 119. of the Revised Code. No 56430  
later than fifteen days after the owner agrees to a settlement, 56431  
any funds held in escrow less any amounts due to the department 56432  
shall be released to the owner and amounts due to the department 56433  
shall be paid to the department. If the amounts in escrow are less 56434  
than the amounts due to the department, the balance shall be paid 56435  
to the department within fifteen days after the owner agrees to a 56436  
settlement. If the department does not issue its audit report 56437  
within the ninety day period, the department shall release any 56438~~

~~money held in escrow to the owner. For the purposes of this~~ 56439  
~~section, a transfer of corporate stock, the merger of one~~ 56440  
~~corporation into another, or a consolidation does not constitute a~~ 56441  
~~sale.~~ 56442

~~If a nursing facility is not sold or its participation is not~~ 56443  
~~terminated after notice is provided to the department under this~~ 56444  
~~division, the department shall order any payments held in escrow~~ 56445  
~~released to the facility upon receiving written notice from the~~ 56446  
~~owner that there will be no sale or termination. After written~~ 56447  
~~notice is received from a nursing facility that a sale or~~ 56448  
~~termination will not take place, the facility shall provide notice~~ 56449  
~~to the department at least forty five days prior to entering into~~ 56450  
~~any contract of sale or terminating participation at any future~~ 56451  
~~time.~~ 56452

(H) The department shall pay each eligible proprietary 56453  
nursing facility a return on the facility's net equity computed at 56454  
the rate of one and one-half times the average interest rate on 56455  
special issues of public debt obligations issued to the federal 56456  
hospital insurance trust fund for the cost reporting period, 56457  
except that no facility's return on net equity shall exceed fifty 56458  
cents per patient day. 56459

When calculating the rate for return on net equity, the 56460  
department shall use the greater of the facility's inpatient days 56461  
during the applicable cost reporting period or the number of 56462  
inpatient days the facility would have had during that period if 56463  
its occupancy rate had been ninety-five per cent. 56464

(I) If a nursing facility would receive a lower rate for 56465  
capital costs for assets in the facility's possession on July 1, 56466  
1993, under this section than it would receive under former 56467  
section 5111.25 of the Revised Code, as the former section existed 56468  
immediately prior to December 22, 1992, the facility shall receive 56469  
for those assets the rate it would have received under the former 56470

section for each fiscal year beginning on or after July 1, 1993, 56471  
until the rate it would receive under this section exceeds the 56472  
rate it would have received under the former section. Any facility 56473  
that receives a rate calculated under the former section 5111.25 56474  
of the Revised Code for assets in the facility's possession on 56475  
July 1, 1993, also shall receive a rate calculated under this 56476  
section for costs of any assets it constructs or acquires after 56477  
July 1, 1993. 56478

**Sec. 5111.251.** (A) The department of job and family services 56479  
shall pay each eligible intermediate care facility for the 56480  
mentally retarded for its reasonable capital costs, a per resident 56481  
per day rate established prospectively each fiscal year for each 56482  
intermediate care facility for the mentally retarded. Except as 56483  
otherwise provided in sections 5111.20 to 5111.32 of the Revised 56484  
Code, the rate shall be based on the facility's capital costs for 56485  
the calendar year preceding the fiscal year in which the rate will 56486  
be paid. The rate shall equal the sum of the following: 56487

(1) The facility's desk-reviewed, actual, allowable, per diem 56488  
cost of ownership for the preceding cost reporting period, limited 56489  
as provided in divisions (C) and (F) of this section; 56490

(2) Any efficiency incentive determined under division (B) of 56491  
this section; 56492

(3) Any amounts for renovations determined under division (D) 56493  
of this section; 56494

(4) Any amounts for return on equity determined under 56495  
division (I) of this section. 56496

Buildings shall be depreciated using the straight line method 56497  
over forty years or over a different period approved by the 56498  
department. Components and equipment shall be depreciated using 56499  
the straight line method over a period designated by the director 56500

of job and family services in rules adopted in accordance with 56501  
Chapter 119. of the Revised Code, consistent with the guidelines 56502  
of the American hospital association, or over a different period 56503  
approved by the department of job and family services. Any rules 56504  
adopted under this division that specify useful lives of 56505  
buildings, components, or equipment apply only to assets acquired 56506  
on or after July 1, 1993. Depreciation for costs paid or 56507  
reimbursed by any government agency shall not be included in costs 56508  
of ownership or renovation unless that part of the payment under 56509  
sections 5111.20 to 5111.32 of the Revised Code is used to 56510  
reimburse the government agency. 56511

(B) The department of job and family services shall pay to 56512  
each intermediate care facility for the mentally retarded an 56513  
efficiency incentive equal to fifty per cent of the difference 56514  
between any desk-reviewed, actual, allowable cost of ownership and 56515  
the applicable limit on cost of ownership payments under division 56516  
(C) of this section. For purposes of computing the efficiency 56517  
incentive, depreciation for costs paid or reimbursed by any 56518  
government agency shall be considered as a cost of ownership, and 56519  
the applicable limit under division (C) of this section shall 56520  
apply both to facilities with more than eight beds and facilities 56521  
with eight or fewer beds. The efficiency incentive paid to a 56522  
facility with eight or fewer beds shall not exceed three dollars 56523  
per patient day, adjusted annually for the inflation rate for the 56524  
twelve-month period beginning on the first day of July of the 56525  
calendar year preceding the calendar year that precedes the fiscal 56526  
year for which the efficiency incentive is determined and ending 56527  
on the thirtieth day of the following June, using the consumer 56528  
price index for shelter costs for all urban consumers for the 56529  
north central region, as published by the United States bureau of 56530  
labor statistics. 56531

(C) Cost of ownership payments to intermediate care 56532

facilities for the mentally retarded with more than eight beds	56533
shall not exceed the following limits:	56534
(1) For facilities with dates of licensure prior to January	56535
1, 1958, not exceeding two dollars and fifty cents per patient	56536
day;	56537
(2) For facilities with dates of licensure after December 31,	56538
1957, but prior to January 1, 1968, not exceeding:	56539
(a) Three dollars and fifty cents per patient day if the cost	56540
of construction was three thousand five hundred dollars or more	56541
per bed;	56542
(b) Two dollars and fifty cents per patient day if the cost	56543
of construction was less than three thousand five hundred dollars	56544
per bed.	56545
(3) For facilities with dates of licensure after December 31,	56546
1967, but prior to January 1, 1976, not exceeding:	56547
(a) Four dollars and fifty cents per patient day if the cost	56548
of construction was five thousand one hundred fifty dollars or	56549
more per bed;	56550
(b) Three dollars and fifty cents per patient day if the cost	56551
of construction was less than five thousand one hundred fifty	56552
dollars per bed, but exceeds three thousand five hundred dollars	56553
per bed;	56554
(c) Two dollars and fifty cents per patient day if the cost	56555
of construction was three thousand five hundred dollars or less	56556
per bed.	56557
(4) For facilities with dates of licensure after December 31,	56558
1975, but prior to January 1, 1979, not exceeding:	56559
(a) Five dollars and fifty cents per patient day if the cost	56560
of construction was six thousand eight hundred dollars or more per	56561
bed;	56562

(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; 56563  
56564  
56565  
56566

(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; 56567  
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56569  
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(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56571  
56572  
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(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding: 56574  
56575

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed; 56576  
56577  
56578

(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; 56579  
56580  
56581  
56582

(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; 56583  
56584  
56585

(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; 56586  
56587  
56588

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56589  
56590  
56591

(6) For facilities with dates of licensure after December 31, 56592

1979, but prior to January 1, 1981, not exceeding:	56593
(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;	56594 56595 56596
(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	56597 56598
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	56599 56600
(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;	56601 56602 56603
(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.	56604 56605 56606
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	56607 56608
(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;	56609 56610 56611
(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.	56612 56613 56614
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	56615 56616
(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;	56617 56618 56619
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56620 56621 56622

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	56623 56624
(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;	56625 56626 56627 56628
(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.	56629 56630 56631
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	56632 56633
(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;	56634 56635 56636 56637
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56638 56639 56640
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	56641 56642
(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;	56643 56644 56645
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56646 56647 56648
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	56649 56650
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56651 56652

the department of mental retardation and developmental 56653  
disabilities; 56654

(b) Seven dollars and sixty-seven cents per patient day if 56655  
the beds were originally licensed as nursing home beds by the 56656  
department of health. 56657

(14) For facilities with dates of licensure after December 56658  
31, 1987, but prior to January 1, 1989, not exceeding thirteen 56659  
dollars and twenty-six cents per patient day; 56660

(15) For facilities with dates of licensure after December 56661  
31, 1988, but prior to January 1, 1990, not exceeding thirteen 56662  
dollars and forty-six cents per patient day; 56663

(16) For facilities with dates of licensure after December 56664  
31, 1989, but prior to January 1, 1991, not exceeding thirteen 56665  
dollars and sixty cents per patient day; 56666

(17) For facilities with dates of licensure after December 56667  
31, 1990, but prior to January 1, 1992, not exceeding thirteen 56668  
dollars and forty-nine cents per patient day; 56669

(18) For facilities with dates of licensure after December 56670  
31, 1991, but prior to January 1, 1993, not exceeding thirteen 56671  
dollars and sixty-seven cents per patient day; 56672

(19) For facilities with dates of licensure after December 56673  
31, 1992, not exceeding fourteen dollars and twenty-eight cents 56674  
per patient day. 56675

(D) Beginning January 1, 1981, regardless of the original 56676  
date of licensure, the department of job and family services shall 56677  
pay a rate for the per diem capitalized costs of renovations to 56678  
intermediate care facilities for the mentally retarded made after 56679  
January 1, 1981, not exceeding six dollars per patient day using 56680  
1980 as the base year and adjusting the amount annually until June 56681  
30, 1993, for fluctuations in construction costs calculated by the 56682

department using the "Dodge building cost indexes, northeastern 56683  
and north central states," published by Marshall and Swift. The 56684  
payment provided for in this division is the only payment that 56685  
shall be made for the capitalized costs of a nonextensive 56686  
renovation of an intermediate care facility for the mentally 56687  
retarded. Nonextensive renovation costs shall not be included in 56688  
cost of ownership, and a nonextensive renovation shall not affect 56689  
the date of licensure for purposes of division (C) of this 56690  
section. This division applies to nonextensive renovations 56691  
regardless of whether they are made by an owner or a lessee. If 56692  
the tenancy of a lessee that has made renovations ends before the 56693  
depreciation expense for the renovation costs has been fully 56694  
reported, the former lessee shall not report the undepreciated 56695  
balance as an expense. 56696

For a nonextensive renovation to qualify for payment under 56697  
this division, both of the following conditions must be met: 56698

(1) At least five years have elapsed since the date of 56699  
licensure or date of an extensive renovation of the portion of the 56700  
facility that is proposed to be renovated, except that this 56701  
condition does not apply if the renovation is necessary to meet 56702  
the requirements of federal, state, or local statutes, ordinances, 56703  
rules, or policies. 56704

(2) The provider has obtained prior approval from the 56705  
department of job and family services. The provider shall submit a 56706  
plan that describes in detail the changes in capital assets to be 56707  
accomplished by means of the renovation and the timetable for 56708  
completing the project. The time for completion of the project 56709  
shall be no more than eighteen months after the renovation begins. 56710  
The director of job and family services shall adopt rules in 56711  
accordance with Chapter 119. of the Revised Code that specify 56712  
criteria and procedures for prior approval of renovation projects. 56713  
No provider shall separate a project with the intent to evade the 56714

characterization of the project as a renovation or as an extensive 56715  
renovation. No provider shall increase the scope of a project 56716  
after it is approved by the department of job and family services 56717  
unless the increase in scope is approved by the department. 56718

(E) The amounts specified in divisions (C) and (D) of this 56719  
section shall be adjusted beginning July 1, 1993, for the 56720  
estimated inflation for the twelve-month period beginning on the 56721  
first day of July of the calendar year preceding the calendar year 56722  
that precedes the fiscal year for which rate will be paid and 56723  
ending on the thirtieth day of the following June, using the 56724  
consumer price index for shelter costs for all urban consumers for 56725  
the north central region, as published by the United States bureau 56726  
of labor statistics. 56727

(F)(1) For facilities of eight or fewer beds that have dates 56728  
of licensure or have been granted project authorization by the 56729  
department of mental retardation and developmental disabilities 56730  
before July 1, 1993, and for facilities of eight or fewer beds 56731  
that have dates of licensure or have been granted project 56732  
authorization after that date if the facilities demonstrate that 56733  
they made substantial commitments of funds on or before that date, 56734  
cost of ownership shall not exceed eighteen dollars and thirty 56735  
cents per resident per day. The eighteen-dollar and thirty-cent 56736  
amount shall be increased by the change in the "Dodge building 56737  
cost indexes, northeastern and north central states," published by 56738  
Marshall and Swift, during the period beginning June 30, 1990, and 56739  
ending July 1, 1993, and by the change in the consumer price index 56740  
for shelter costs for all urban consumers for the north central 56741  
region, as published by the United States bureau of labor 56742  
statistics, annually thereafter. 56743

(2) For facilities with eight or fewer beds that have dates 56744  
of licensure or have been granted project authorization by the 56745  
department of mental retardation and developmental disabilities on 56746

or after July 1, 1993, for which substantial commitments of funds 56747  
were not made before that date, cost of ownership payments shall 56748  
not exceed the applicable amount calculated under division (F)(1) 56749  
of this section, if the department of job and family services 56750  
gives prior approval for construction of the facility or, 56751  
regardless of whether the department gives prior approval, if the 56752  
facility obtains a residential facility license under section 56753  
5123.19 of the Revised Code pursuant to section 5123.1910 of the 56754  
Revised Code. If the department does not give prior approval, cost 56755  
of ownership payments shall not exceed the amount specified in 56756  
division (C) of this section unless the facility obtains a 56757  
residential facility license under section 5123.19 of the Revised 56758  
Code pursuant to section 5123.1910 of the Revised Code. 56759

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 56760  
section, the total payment for cost of ownership, cost of 56761  
ownership efficiency incentive, and capitalized costs of 56762  
renovations for an intermediate care facility for the mentally 56763  
retarded with eight or fewer beds shall not exceed the sum of the 56764  
limitations specified in divisions (C) and (D) of this section. 56765

(G) Notwithstanding any provision of this section or section 56766  
5111.24 of the Revised Code, the director of job and family 56767  
services may adopt rules in accordance with Chapter 119. of the 56768  
Revised Code that provide for a calculation of a combined maximum 56769  
payment limit for indirect care costs and cost of ownership for 56770  
intermediate care facilities for the mentally retarded with eight 56771  
or fewer beds. 56772

~~(H) After June 30, 1980, the owner of an intermediate care 56773  
facility for the mentally retarded operating under a provider 56774  
agreement shall provide written notice to the department of job 56775  
and family services at least forty five days prior to entering 56776  
into any contract of sale for the facility or voluntarily 56777  
terminating participation in the medical assistance program. After 56778~~

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. 56812  
The department shall provide for a bank, trust company, or savings 56813  
and loan association to hold in escrow the amount of the last two 56814  
monthly payments to an intermediate care facility for the mentally 56815  
retarded made pursuant to division (A)(1) of section 5111.22 of 56816  
the Revised Code before a sale or voluntary termination of 56817  
participation or, if the owner fails, within the time required by 56818  
this division, to notify the department before entering into a 56819  
contract of sale for the facility, the amount of the first two 56820  
monthly payments made to the facility after the department learns 56821  
of the contract, regardless of whether a new owner is in 56822  
possession of the facility. If the amount the owner will be 56823  
required to refund under this section is likely to be less than 56824  
the amount of the two monthly payments otherwise put into escrow 56825  
under this division, the department shall take one of the 56826  
following actions instead of withholding the amount of the two 56827  
monthly payments:~~ 56828

~~(1) In the case of an owner that owns other facilities that 56829  
participate in the medical assistance program, obtain a promissory 56830  
note in an amount sufficient to cover the amount likely to be 56831  
refunded;~~ 56832

~~(2) In the case of all other owners, withhold the amount of 56833  
the last monthly payment to the intermediate care facility for the 56834  
mentally retarded or, if the owner fails, within the time required 56835  
by this division, to notify the department before entering into a 56836  
contract of sale for the facility, the amount of the first monthly 56837  
payment made to the facility after the department learns of the 56838  
contract, regardless of whether a new owner is in possession of 56839  
the facility.~~ 56840

~~The department shall, within ninety days following the filing 56841  
of the cost report, audit the report and issue an audit report to 56842  
the owner. The department also may audit any other cost reports 56843~~

~~for the facility that have been filed during the previous three 56844  
years. In the audit report, the department shall state its 56845  
findings and the amount of any money owed to the department by the 56846  
intermediate care facility for the mentally retarded. The findings 56847  
shall be subject to an adjudication conducted in accordance with 56848  
Chapter 119. of the Revised Code. No later than fifteen days after 56849  
the owner agrees to a settlement, any funds held in escrow less 56850  
any amounts due to the department shall be released to the owner 56851  
and amounts due to the department shall be paid to the department. 56852  
If the amounts in escrow are less than the amounts due to the 56853  
department, the balance shall be paid to the department within 56854  
fifteen days after the owner agrees to a settlement. If the 56855  
department does not issue its audit report within the ninety day 56856  
period, the department shall release any money held in escrow to 56857  
the owner. For the purposes of this section, a transfer of 56858  
corporate stock, the merger of one corporation into another, or a 56859  
consolidation does not constitute a sale. 56860~~

~~If an intermediate care facility for the mentally retarded is 56861  
not sold or its participation is not terminated after notice is 56862  
provided to the department under this division, the department 56863  
shall order any payments held in escrow released to the facility 56864  
upon receiving written notice from the owner that there will be no 56865  
sale or termination of participation. After written notice is 56866  
received from an intermediate care facility for the mentally 56867  
retarded that a sale or termination of participation will not take 56868  
place, the facility shall provide notice to the department at 56869  
least forty five days prior to entering into any contract of sale 56870  
or terminating participation at any future time. 56871~~

(I) The department of job and family services shall pay each 56872  
eligible proprietary intermediate care facility for the mentally 56873  
retarded a return on the facility's net equity computed at the 56874  
rate of one and one-half times the average of interest rates on 56875

special issues of public debt obligations issued to the federal 56876  
hospital insurance trust fund for the cost reporting period. No 56877  
facility's return on net equity paid under this division shall 56878  
exceed one dollar per patient day. 56879

In calculating the rate for return on net equity, the 56880  
department shall use the greater of the facility's inpatient days 56881  
during the applicable cost reporting period or the number of 56882  
inpatient days the facility would have had during that period if 56883  
its occupancy rate had been ninety-five per cent. 56884

(J)(1) Except as provided in division (J)(2) of this section, 56885  
if a provider leases or transfers an interest in a facility to 56886  
another provider who is a related party, the related party's 56887  
allowable cost of ownership shall include the lesser of the 56888  
following: 56889

(a) The annual lease expense or actual cost of ownership, 56890  
whichever is applicable; 56891

(b) The reasonable cost to the lessor or provider making the 56892  
transfer. 56893

(2) If a provider leases or transfers an interest in a 56894  
facility to another provider who is a related party, regardless of 56895  
the date of the lease or transfer, the related party's allowable 56896  
cost of ownership shall include the annual lease expense or actual 56897  
cost of ownership, whichever is applicable, subject to the 56898  
limitations specified in divisions (B) to (I) of this section, if 56899  
all of the following conditions are met: 56900

(a) The related party is a relative of owner; 56901

(b) In the case of a lease, if the lessor retains any 56902  
ownership interest, it is, except as provided in division 56903  
(J)(2)(d)(ii) of this section, in only the real property and any 56904  
improvements on the real property; 56905

(c) In the case of a transfer, the provider making the 56906  
transfer retains, except as provided in division (J)(2)(d)(iv) of 56907  
this section, no ownership interest in the facility; 56908

(d) The department of job and family services determines that 56909  
the lease or transfer is an arm's length transaction pursuant to 56910  
rules the department shall adopt in accordance with Chapter 119. 56911  
of the Revised Code no later than December 31, 2000. The rules 56912  
shall provide that a lease or transfer is an arm's length 56913  
transaction if all of the following, as applicable, apply: 56914

(i) In the case of a lease, once the lease goes into effect, 56915  
the lessor has no direct or indirect interest in the lessee or, 56916  
except as provided in division (J)(2)(b) of this section, the 56917  
facility itself, including interest as an owner, officer, 56918  
director, employee, independent contractor, or consultant, but 56919  
excluding interest as a lessor. 56920

(ii) In the case of a lease, the lessor does not reacquire an 56921  
interest in the facility except through the exercise of a lessor's 56922  
rights in the event of a default. If the lessor reacquires an 56923  
interest in the facility in this manner, the department shall 56924  
treat the facility as if the lease never occurred when the 56925  
department calculates its reimbursement rates for capital costs. 56926

(iii) In the case of a transfer, once the transfer goes into 56927  
effect, the provider that made the transfer has no direct or 56928  
indirect interest in the provider that acquires the facility or 56929  
the facility itself, including interest as an owner, officer, 56930  
director, employee, independent contractor, or consultant, but 56931  
excluding interest as a creditor. 56932

(iv) In the case of a transfer, the provider that made the 56933  
transfer does not reacquire an interest in the facility except 56934  
through the exercise of a creditor's rights in the event of a 56935  
default. If the provider reacquires an interest in the facility in 56936

this manner, the department shall treat the facility as if the 56937  
transfer never occurred when the department calculates its 56938  
reimbursement rates for capital costs. 56939

(v) The lease or transfer satisfies any other criteria 56940  
specified in the rules. 56941

(e) Except in the case of hardship caused by a catastrophic 56942  
event, as determined by the department, or in the case of a lessor 56943  
or provider making the transfer who is at least sixty-five years 56944  
of age, not less than twenty years have elapsed since, for the 56945  
same facility, allowable cost of ownership was determined most 56946  
recently under this division. 56947

**Sec. 5111.28.** (A) If a provider properly amends its cost 56948  
report under section 5111.27 of the Revised Code and the amended 56949  
report shows that the provider received a lower rate under the 56950  
original cost report than it was entitled to receive, the 56951  
department shall adjust the provider's rate prospectively to 56952  
reflect the corrected information. The department shall pay the 56953  
adjusted rate beginning two months after the first day of the 56954  
month after the provider files the amended cost report. If the 56955  
department finds, from an exception review of resident assessment 56956  
information conducted after the effective date of the rate for 56957  
direct care costs that is based on the assessment information, 56958  
that inaccurate assessment information resulted in the provider 56959  
receiving a lower rate than it was entitled to receive, the 56960  
department prospectively shall adjust the provider's rate 56961  
accordingly and shall make payments using the adjusted rate for 56962  
the remainder of the calendar quarter for which the assessment 56963  
information is used to determine the rate, beginning one month 56964  
after the first day of the month after the exception review is 56965  
completed. 56966

(B) If the provider properly amends its cost report under 56967

section 5111.27 of the Revised Code, the department makes a 56968  
finding based on an audit under that section, or the department 56969  
makes a finding based on an exception review of resident 56970  
assessment information conducted under that section after the 56971  
effective date of the rate for direct care costs that is based on 56972  
the assessment information, any of which results in a 56973  
determination that the provider has received a higher rate than it 56974  
was entitled to receive, the department shall recalculate the 56975  
provider's rate using the revised information. The department 56976  
shall apply the recalculated rate to the periods when the provider 56977  
received the incorrect rate to determine the amount of the 56978  
overpayment. The provider shall refund the amount of the 56979  
overpayment. 56980

In addition to requiring a refund under this division, the 56981  
department may charge the provider interest at the applicable rate 56982  
specified in this division from the time the overpayment was made. 56983

(1) If the overpayment resulted from costs reported for 56984  
calendar year 1993, the interest shall be no greater than one and 56985  
one-half times the average bank prime rate. 56986

(2) If the overpayment resulted from costs reported for 56987  
subsequent calendar years: 56988

(a) The interest shall be no greater than two times the 56989  
average bank prime rate if the overpayment was equal to or less 56990  
than one per cent of the total medicaid payments to the provider 56991  
for the fiscal year for which the incorrect information was used 56992  
to establish a rate. 56993

(b) The interest shall be no greater than two and one-half 56994  
times the current average bank prime rate if the overpayment was 56995  
greater than one per cent of the total medicaid payments to the 56996  
provider for the fiscal year for which the incorrect information 56997  
was used to establish a rate. 56998

(C) The department also may impose the following penalties: 56999

(1) If a provider does not furnish invoices or other 57000  
documentation that the department requests during an audit within 57001  
sixty days after the request, no more than the greater of one 57002  
thousand dollars per audit or twenty-five per cent of the 57003  
cumulative amount by which the costs for which documentation was 57004  
not furnished increased the total medicaid payments to the 57005  
provider during the fiscal year for which the costs were used to 57006  
establish a rate; 57007

(2) If an ~~owner~~ exiting operator fails to provide a properly 57008  
completed notice of ~~sale of the facility or closure,~~ voluntary 57009  
termination, voluntary withdrawal of participation ~~in the medical~~ 57010  
~~assistance program, or change of operator,~~ as required by section 57011  
~~5111.25~~ 5111.66 or ~~5111.251~~ 5111.67 of the Revised Code, no more 57012  
than the current average bank prime rate plus four per cent of ~~the~~ 57013  
~~last~~ an amount equal to two times the average amount of monthly 57014  
payments to the exiting operator under the medicaid program for 57015  
the twelve-month period immediately preceding the month that 57016  
includes the last day the exiting operator's provider agreement is 57017  
in effect or, in the case of a voluntary withdrawal of 57018  
participation, the effective date of the voluntary withdrawal of 57019  
participation. 57020

(D) If the provider continues to participate in the ~~medical~~ 57021  
~~assistance~~ medicaid program, the department shall deduct any 57022  
amount that the provider is required to refund under this section, 57023  
and the amount of any interest charged or penalty imposed under 57024  
this section, from the next available payment from the department 57025  
to the provider. The department and the provider may enter into an 57026  
agreement under which the amount, together with interest, is 57027  
deducted in installments from payments from the department to the 57028  
provider. If the provider does not continue to participate in the 57029  
medicaid program, the department shall collect any amount that the 57030

provider owes to the department under this section from the 57031  
withholding, security, or both that the department makes or 57032  
requires under section 5111.681 of the Revised Code. 57033

(E) The department shall transmit refunds and penalties to 57034  
the treasurer of state for deposit in the general revenue fund. 57035

(F) For the purpose of this section, the department shall 57036  
determine the average bank prime rate using statistical release 57037  
H.15, "selected interest rates," a weekly publication of the 57038  
federal reserve board, or any successor publication. If 57039  
statistical release H.15, or its successor, ceases to contain the 57040  
bank prime rate information or ceases to be published, the 57041  
department shall request a written statement of the average bank 57042  
prime rate from the federal reserve bank of Cleveland or the 57043  
federal reserve board. 57044

**Sec. 5111.29.** (A) The director of job and family services 57045  
shall adopt rules in accordance with Chapter 119. of the Revised 57046  
Code that establish a process under which a nursing facility or 57047  
intermediate care facility for the mentally retarded, or a group 57048  
or association of facilities, may seek reconsideration of rates 57049  
established under sections 5111.23 to 5111.28 of the Revised Code, 57050  
including a rate for direct care costs recalculated before the 57051  
effective date of the rate as a result of an exception review of 57052  
resident assessment information conducted under section 5111.27 of 57053  
the Revised Code. 57054

(1) Except as provided in divisions (A)(2) to (4) of this 57055  
section, the only issue that a facility, group, or association may 57056  
raise in the rate reconsideration shall be whether the rate was 57057  
calculated in accordance with sections 5111.23 to 5111.28 of the 57058  
Revised Code and the rules adopted under those sections. The rules 57059  
shall permit a facility, group, or association to submit written 57060  
arguments or other materials that support its position. The rules 57061

shall specify time frames within which the facility, group, or 57062  
association and the department must act. If the department 57063  
determines, as a result of the rate reconsideration, that the rate 57064  
established for one or more facilities is less than the rate to 57065  
which it is entitled, the department shall increase the rate. If 57066  
the department has paid the incorrect rate for a period of time, 57067  
the department shall pay the facility the difference between the 57068  
amount it was paid for that period and the amount it should have 57069  
been paid. 57070

(2) The rules shall provide that during a fiscal year, the 57071  
department, by means of the rate reconsideration process, may 57072  
increase a facility's rate as calculated under sections 5111.23 to 57073  
5111.28 of the Revised Code if the facility demonstrates that its 57074  
actual, allowable costs have increased because of extreme 57075  
circumstances. A facility may qualify for a rate increase only if 57076  
its per diem, actual, allowable costs have increased to a level 57077  
that exceeds its total rate, including any efficiency incentive 57078  
and return on equity payment. The rules shall specify the 57079  
circumstances that would justify a rate increase under division 57080  
(A)(2) of this section. In the case of nursing facilities, the 57081  
rules shall provide that the extreme circumstances include 57082  
increased security costs for an inner-city nursing facility and an 57083  
increase in workers' compensation experience rating of greater 57084  
than five per cent for a facility that has an appropriate claims 57085  
management program but do not include a change of ownership that 57086  
results from bankruptcy, foreclosure, or findings of violations of 57087  
certification requirements by the department of health. In the 57088  
case of intermediate care facilities for the mentally retarded, 57089  
the rules shall provide that the extreme circumstances include, 57090  
but are not limited to, renovations approved under division (D) of 57091  
section 5111.251 of the Revised Code, an increase in workers' 57092  
compensation experience rating of greater than five per cent for a 57093  
facility that has an appropriate claims management program, 57094

increased security costs for an inner-city facility, and a change 57095  
of ownership that results from bankruptcy, foreclosure, or 57096  
findings of violations of certification requirements by the 57097  
department of health. An increase under division (A)(2) of this 57098  
section is subject to any rate limitations or maximum rates 57099  
established by sections 5111.23 to 5111.28 of the Revised Code for 57100  
specific cost centers. Any rate increase granted under division 57101  
(A)(2) of this section shall take effect on the first day of the 57102  
first month after the department receives the request. 57103

(3) The rules shall provide that the department, through the 57104  
rate reconsideration process, may increase a facility's rate as 57105  
calculated under sections 5111.23 to 5111.28 of the Revised Code 57106  
if the department, in its sole discretion, determines that the 57107  
rate as calculated under those sections works an extreme hardship 57108  
on the facility. 57109

(4) The rules shall provide that when beds certified for the 57110  
medical assistance program are added to an existing facility, 57111  
replaced at the same site, or subject to a change of ownership or 57112  
lease, the department, through the rate reconsideration process, 57113  
shall increase the facility's rate for capital costs 57114  
proportionately, as limited by any applicable limitation under 57115  
section 5111.25 or 5111.251 of the Revised Code, to account for 57116  
the costs of the beds that are added, replaced, or subject to a 57117  
change of ownership or lease. The department shall make this 57118  
increase one month after the first day of the month after the 57119  
department receives sufficient documentation of the costs. Any 57120  
rate increase granted under division (A)(4) of this section after 57121  
June 30, 1993, shall remain in effect until the effective date of 57122  
a rate calculated under section 5111.25 or 5111.251 of the Revised 57123  
Code that includes costs incurred for a full calendar year for the 57124  
bed addition, bed replacement, or change of ownership or lease. 57125  
The facility shall report double accumulated depreciation in an 57126

amount equal to the depreciation included in the rate adjustment 57127  
on its cost report for the first year of operation. During the 57128  
term of any loan used to finance a project for which a rate 57129  
adjustment is granted under division (A)(4) of this section, if 57130  
the facility is operated by the same provider, the facility shall 57131  
subtract from the interest costs it reports on its cost report an 57132  
amount equal to the difference between the following: 57133

(a) The actual, allowable interest costs for the loan during 57134  
the calendar year for which the costs are being reported; 57135

(b) The actual, allowable interest costs attributable to the 57136  
loan that were used to calculate the rates paid to the facility 57137  
during the same calendar year. 57138

(5) The department's decision at the conclusion of the 57139  
reconsideration process shall not be subject to any administrative 57140  
proceedings under Chapter 119. or any other provision of the 57141  
Revised Code. 57142

(B) ~~Any~~ All of the following are subject to an adjudication 57143  
conducted in accordance with Chapter 119. of the Revised Code: 57144

(1) Any audit disallowance that the department makes as the 57145  
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 57146

(2) Any adverse finding that results from an exception review 57147  
of resident assessment information conducted under ~~that~~ section 57148  
5111.27 of the Revised Code after the effective date of the 57149  
facility's rate that is based on the assessment information, ~~and~~ 57150  
~~any;~~ 57151

(3) Any penalty the department imposes under division (C) of 57152  
section 5111.28 of the Revised Code ~~shall be subject to an~~ 57153  
~~adjudication conducted in accordance with Chapter 119. or section~~ 57154  
5111.684 of the Revised Code. 57155

**Sec. 5111.30.** The department of job and family services shall 57156

terminate the provider agreement with an operator of a nursing 57157  
facility or intermediate care facility for the mentally retarded 57158  
that does not comply with the requirements of section 3721.071 of 57159  
the Revised Code for the installation of fire extinguishing and 57160  
fire alarm systems. 57161

**Sec. 5111.31.** (A) Every provider agreement with an operator 57162  
of a nursing facility or intermediate care facility for the 57163  
mentally retarded shall: 57164

(1) Prohibit the facility from failing or refusing to retain 57165  
as a patient any person because the person is, becomes, or may, as 57166  
a patient in the facility, become a recipient of assistance under 57167  
the medical assistance program. For the purposes of this division, 57168  
a recipient of medical assistance who is a patient in a facility 57169  
shall be considered a patient in the facility during any hospital 57170  
stays totaling less than twenty-five days during any twelve-month 57171  
period. Recipients who have been identified by the department of 57172  
job and family services or its designee as requiring the level of 57173  
care of an intermediate care facility for the mentally retarded 57174  
shall not be subject to a maximum period of absences during which 57175  
they are considered patients if prior authorization of the 57176  
department for visits with relatives and friends and participation 57177  
in therapeutic programs is obtained under rules adopted under 57178  
section 5111.02 of the Revised Code. 57179

(2) Include any part of the facility that meets standards for 57180  
certification of compliance with federal and state laws and rules 57181  
for participation in the medical assistance program, except that 57182  
nursing facilities that, during the period beginning July 1, 1987, 57183  
and ending July 1, 1993, added beds licensed as nursing home beds 57184  
under Chapter 3721. of the Revised Code are not required to 57185  
include those beds under a provider agreement unless otherwise 57186  
required by federal law. Once added to the provider agreement, 57187

however, those nursing home beds may not be removed unless the 57188  
facility withdraws from the medical assistance program in its 57189  
entirety. 57190

(3) Prohibit the facility from discriminating against any 57191  
patient on the basis of race, color, sex, creed, or national 57192  
origin. 57193

(4) Except as otherwise prohibited under section 5111.55 of 57194  
the Revised Code, prohibit the facility from failing or refusing 57195  
to accept a patient because the patient is, becomes, or may, as a 57196  
patient in the facility, become a recipient of assistance under 57197  
the medical assistance program if less than eighty per cent of the 57198  
patients in the facility are recipients of medical assistance. 57199

(B) Nothing in this section shall bar any religious or 57200  
denominational nursing facility or intermediate care facility for 57201  
the mentally retarded that is operated, supervised, or controlled 57202  
by a religious organization from giving preference to persons of 57203  
the same religion or denomination. Nothing in this section shall 57204  
bar any facility from giving preference to persons with whom it 57205  
has contracted to provide continuing care. 57206

(C) Nothing in this section shall bar any county home 57207  
organized under Chapter 5155. of the Revised Code from admitting 57208  
residents exclusively from the county in which the county home is 57209  
located. 57210

(D) No operator of a nursing facility or intermediate care 57211  
facility for the mentally retarded with which a provider agreement 57212  
is in effect shall violate the provider contract obligations 57213  
imposed under this section. 57214

(E) Nothing in divisions (A) and (B) of this section shall 57215  
bar any nursing facility or intermediate care facility for the 57216  
mentally retarded from retaining patients who have resided in the 57217  
facility for not less than one year as private pay patients and 57218

who subsequently become recipients of assistance under the 57219  
medicaid program, but refusing to accept as a patient any person 57220  
who is or may, as a patient in the facility, become a recipient of 57221  
assistance under the medicaid program, if all of the following 57222  
apply: 57223

(1) The facility does not refuse to retain any patient who 57224  
has resided in the facility for not less than one year as a 57225  
private pay patient because the patient becomes a recipient of 57226  
assistance under the medicaid program, except as necessary to 57227  
comply with division (E)(2) of this section; 57228

(2) The number of medicaid recipients retained under this 57229  
division does not at any time exceed ten per cent of all the 57230  
patients in the facility; 57231

(3) On July 1, 1980, all the patients in the facility were 57232  
private pay patients. 57233

**Sec. 5111.34.** (A) There is hereby created the nursing 57234  
facility reimbursement study council consisting of the following 57235  
~~seventeen~~ eighteen members: 57236

(1) The director of job and family services; 57237

(2) The deputy director of the office of Ohio health plans of 57238  
the department of job and family services; 57239

(3) An employee of the governor's office; 57240

(4) The director of health; 57241

(5) The director of aging; 57242

(6) Three members of the house of representatives, not more 57243  
than two of whom are members of the same political party, 57244  
appointed by the speaker of the house of representatives; 57245

(7) Three members of the senate, not more than two of whom 57246  
are members of the same political party, appointed by the 57247

president of the senate; 57248

(8) One representative of medicaid recipients residing in nursing facilities, appointed by the governor; 57249  
57250

(9) Two representatives of each of the following 57251  
organizations, appointed by their respective governing bodies: 57252

(a) The Ohio academy of nursing homes; 57253

(b) The association of Ohio philanthropic homes and housing 57254  
for the aging; 57255

(c) The Ohio health care association. 57256

Initial appointments of members described in divisions 57257  
(A)(6), (7), and ~~(8)~~(9) of this section shall be made no later 57258  
than ninety days after June 6, 2001, except that the initial 57259  
appointments of the two additional members described in divisions 57260  
(A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 57261  
124th general assembly shall be made not later than ninety days 57262  
after ~~the effective date of this amendment~~ March 14, 2002. Initial 57263  
appointment of the member described in division (A)(8) of this 57264  
section shall be made not later than ninety days after the 57265  
effective date of this amendment. Vacancies in any of those 57266  
appointments shall be filled in the same manner as original 57267  
appointments. The members described in divisions (A)(6), (7), ~~and~~ 57268  
(8), and (9) of this section shall serve at the pleasure of the 57269  
official or governing body appointing the member. The members 57270  
described in divisions (A)(1), (2), (3), (4), and (5) of this 57271  
section shall serve for as long as they hold the position that 57272  
qualifies them for membership on the council. The speaker of the 57273  
house of representatives and the president of the senate jointly 57274  
shall appoint the chairperson of the council. Members of the 57275  
council shall serve without compensation. 57276

(B) The council shall review, on an ongoing basis, the system 57277  
established by sections 5111.20 to 5111.32 of the Revised Code for 57278

reimbursing nursing facilities under the medical assistance 57279  
program. The council shall recommend any changes it determines are 57280  
necessary. The council shall issue a report of its activities, 57281  
findings, and recommendations to the governor, the speaker of the 57282  
house of representatives, and the president of the senate not 57283  
later than July 30, 2004. Thereafter, the council periodically 57284  
shall report its activities, findings, and recommendations to the 57285  
governor, the speaker of the house of representatives, and the 57286  
president of the senate. 57287

(C) The council shall meet quarterly. Its first quarterly 57288  
meeting after the effective date of this amendment shall be held 57289  
not later than August 1, 2003. 57290

**Sec. 5111.65.** As used in sections 5111.65 to 5111.6810 of the 57291  
Revised Code: 57292

(A) "Change of operator" means an entering operator becoming 57293  
the operator of a nursing facility or intermediate care facility 57294  
for the mentally retarded in the place of the exiting operator. 57295

(1) Actions that constitute a change of operator include, but 57296  
are not limited to, the following: 57297

(a) A change in an exiting operator's form of legal 57298  
organization, including the formation of a partnership or 57299  
corporation from a sole proprietorship; 57300

(b) A transfer of all the exiting operator's ownership 57301  
interest in the operation of the facility to the entering 57302  
operator, regardless of whether ownership of any or all of the 57303  
real property or personal property associated with the facility is 57304  
also transferred; 57305

(c) A lease of the facility to the entering operator or the 57306  
exiting operator's termination of the lease; 57307

(d) If the exiting operator is a partnership, dissolution of 57308

<u>the partnership;</u>	57309
<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	57310
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	57311
<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	57312
<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>	57313
<u>(2) The following, alone, do not constitute a change of operator:</u>	57314
<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>	57315
<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>	57316
<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>	57317
<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>	57318
<u>(C) "Effective date of a facility closure" means the last day</u>	57319

that the last of the residents of the nursing facility or 57339  
intermediate care facility for the mentally retarded resides in 57340  
the facility. 57341

(D) "Effective date of a voluntary termination" means the day 57342  
the intermediate care facility for the mentally retarded ceases to 57343  
accept medicaid patients. 57344

(E) "Effective date of a voluntary withdrawal of 57345  
participation" means the day the nursing facility ceases to accept 57346  
new medicaid patients other than the individuals who reside in the 57347  
nursing facility on the day before the effective date of the 57348  
voluntary withdrawal of participation. 57349

(F) "Entering operator" means the person or government entity 57350  
that will become the operator of a nursing facility or 57351  
intermediate care facility for the mentally retarded when a change 57352  
of operator occurs. 57353

(G) "Exiting operator" means any of the following: 57354

(1) An operator that will cease to be the operator of a 57355  
nursing facility or intermediate care facility for the mentally 57356  
retarded on the effective date of a change of operator; 57357

(2) An operator that will cease to be the operator of a 57358  
nursing facility or intermediate care facility for the mentally 57359  
retarded on the effective date of a facility closure; 57360

(3) An operator of an intermediate care facility for the 57361  
mentally retarded that is undergoing or has undergone a voluntary 57362  
termination; 57363

(4) An operator of a nursing facility that is undergoing or 57364  
has undergone a voluntary withdrawal of participation. 57365

(H) "Facility closure" means discontinuance of the use of the 57366  
building, or part of the building, that houses the facility as a 57367  
nursing facility or intermediate care facility for the mentally 57368

retarded that results in the relocation of all of the facility's 57369  
residents. A facility closure occurs regardless of any of the 57370  
following: 57371

(1) The operator completely or partially replacing the 57372  
facility by constructing a new facility or transferring the 57373  
facility's license to another facility; 57374

(2) The facility's residents relocating to another of the 57375  
operator's facilities; 57376

(3) Any action the department of health takes regarding the 57377  
facility's certification under Title XIX of the "Social Security 57378  
Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, that may 57379  
result in the transfer of part of the facility's survey findings 57380  
to another of the operator's facilities; 57381

(4) Any action the department of health takes regarding the 57382  
facility's license under Chapter 3721. of the Revised Code; 57383

(5) Any action the department of mental retardation and 57384  
developmental disabilities takes regarding the facility's license 57385  
under section 5123.19 of the Revised Code. 57386

(I) "Fiscal year" means the fiscal year of this state, as 57387  
specified in section 9.34 of the Revised Code. 57388

(J) "Intermediate care facility for the mentally retarded," 57389  
"nursing home," "operator," and "owner" have the same meanings as 57390  
in section 5111.20 of the Revised Code. 57391

(K) "Provider agreement" means a contract between the 57392  
department of job and family services and the operator of a 57393  
nursing facility or intermediate care facility for the mentally 57394  
retarded for the provision of nursing facility services or 57395  
intermediate care facility services for the mentally retarded 57396  
under the medical assistance program. 57397

(L) "Voluntary termination" means an operator's voluntary 57398

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. 57399  
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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. 57403  
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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: 57407  
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 57416  
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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; 57418  
57419  
57420  
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(C) The exiting operator's medicaid provider agreement number; 57422  
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(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation; 57424  
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(E) The signature of the exiting operator's or owner's representative. 57426  
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Sec. 5111.661. An operator shall comply with section 57428  
1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 57429  
42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 57430  
undergoes a voluntary withdrawal of participation. 57431

Sec. 5111.67. (A) An exiting operator or owner and entering 57432  
operator shall provide the department of job and family services 57433  
written notice of a change of operator if the nursing facility or 57434  
intermediate care facility for the mentally retarded participates 57435  
in the medicaid program and the entering operator seeks to 57436  
continue the facility's participation. The written notice shall be 57437  
provided to the department not later than forty-five days before 57438  
the effective date of the change of operator if the change of 57439  
operator does not entail the relocation of residents. The written 57440  
notice shall be provided to the department not later than ninety 57441  
days before the effective date of the change of operator if the 57442  
change of operator entails the relocation of residents. The 57443  
written notice shall include all of the following: 57444

(1) The name of the exiting operator and, if any, the exiting 57445  
operator's authorized agent; 57446

(2) The name of the nursing facility or intermediate care 57447  
facility for the mentally retarded that is the subject of the 57448  
change of operator; 57449

(3) The exiting operator's medicaid provider agreement 57450  
number; 57451

(4) The name of the entering operator; 57452

(5) The effective date of the change of operator; 57453

(6) The manner in which the entering operator becomes the 57454  
facility's operator, including through sale, lease, merger, or 57455  
other action; 57456

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step; 57457  
57458  
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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; 57460  
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(9) The signature of the exiting operator's or owner's representative. 57463  
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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: 57465  
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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; 57469  
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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. 57475  
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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: 57481  
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(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or 57485  
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before the date required by that section. 57487

(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. 57488  
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(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code. 57493  
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**Sec. 5111.672.** (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case: 57495  
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57497  
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(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code. 57499  
57500

(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. 57501  
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(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both. 57505  
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(4) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code. 57510  
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(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows: 57512  
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(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate 57515  
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payments are made, make the withholding required by section 57517  
5111.681 of the Revised Code, and withhold the final payment to 57518  
the exiting operator until the following: 57519

(a) Ninety days after the exiting operator submits to the 57520  
department a properly completed cost report under section 5111.683 57521  
of the Revised Code; 57522

(b) One hundred eighty days after the department waives the 57523  
cost report requirement of section 5111.683 of the Revised Code. 57524

(2) The effective date shall be not earlier than the later of 57525  
the effective date of the change of operator or the date that the 57526  
exiting operator or owner and entering operator comply with 57527  
section 5111.67 of the Revised Code. 57528

(3) The effective date shall be not later than the following 57529  
after the later of the dates specified in division (B)(2) of this 57530  
section: 57531

(a) Forty-five days if the change of operator does not entail 57532  
the relocation of residents; 57533

(b) Ninety days if the change of operator entails the 57534  
relocation of residents. 57535

**Sec. 5111.673.** A provider agreement that the department of 57536  
job and family services enters into with an entering operator 57537  
under section 5111.671 or 5111.672 of the Revised Code shall 57538  
satisfy all of the following requirements: 57539

(A) Comply with all applicable federal statutes and 57540  
regulations; 57541

(B) Comply with section 5111.22 of the Revised Code and all 57542  
other applicable state statutes and rules; 57543

(C) Include all the terms and conditions of the exiting 57544  
operator's provider agreement, including, but not limited to, all 57545

<u>of the following:</u>	57546
<u>(1) Any plan of correction;</u>	57547
<u>(2) Compliance with health and safety standards;</u>	57548
<u>(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	57549 57550
<u>(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;</u>	57551 57552
<u>(5) Compliance with additional requirements imposed by the department;</u>	57553 57554
<u>(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.</u>	57555 57556 57557 57558
<u>(D) Require the entering operator to assume the exiting operator's remaining debt to the department and United States centers for medicare and medicaid services that the department is unable to collect from the exiting operator.</u>	57559 57560 57561 57562
<u>Sec. 5111.674. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility or intermediate care facility for the mentally retarded for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5111.671 or 5111.672 of the Revised Code.</u>	57563 57564 57565 57566 57567 57568 57569
<u>Sec. 5111.675. The department of job and family services may enter into a provider agreement as provided in section 5111.22 of the Revised Code, rather than section 5111.671 or 5111.672 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the</u>	57570 57571 57572 57573 57574

requirements of division (C) or (D) of section 5111.673 of the 57575  
Revised Code. The department may not enter into the provider 57576  
agreement unless the department of health certifies the nursing 57577  
facility or intermediate care facility for the mentally retarded 57578  
under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 57579  
42 U.S.C.A. 1396, as amended. The effective date of the provider 57580  
agreement shall not precede any of the following: 57581

(A) The date that the department of health certifies the 57582  
facility; 57583

(B) The effective date of the change of operator; 57584

(C) The date the requirement of section 5111.67 of the 57585  
Revised Code is satisfied. 57586

Sec. 5111.676. The director of job and family services may 57587  
adopt rules in accordance with Chapter 119. of the Revised Code 57588  
governing adjustments to the medicaid reimbursement rate for a 57589  
nursing facility or intermediate care facility for the mentally 57590  
retarded that undergoes a change of operator. No rate adjustment 57591  
resulting from a change of operator shall be effective before the 57592  
effective date of the entering operator's provider agreement. This 57593  
is the case regardless of whether the provider agreement is 57594  
entered into under section 5111.671, section 5111.672, or, 57595  
pursuant to section 5111.675, section 5111.22 of the Revised Code. 57596

Sec. 5111.677. Neither of the following shall affect the 57597  
department of job and family services' determination of whether or 57598  
when a change of operator occurs or the effective date of an 57599  
entering operator's provider agreement under section 5111.671, 57600  
section 5111.672, or, pursuant to section 5111.675, section 57601  
5111.22 of the Revised Code: 57602

(A) The department of health's determination that a change of 57603  
operator has or has not occurred for purposes of licensure under 57604

<u>Chapter 3721. of the Revised Code;</u>	57605
<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>	57606 57607 57608 57609
<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>	57610 57611 57612 57613 57614 57615 57616 57617 57618 57619 57620 57621 57622 57623
<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>	57624 57625 57626
<u>(2) Interest owed to the department and United States centers for medicare and medicaid services;</u>	57627 57628
<u>(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;</u>	57629 57630
<u>(4) Third-party liabilities;</u>	57631
<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>	57632 57633 57634

portion thereof in which the exiting operator participated in the 57635  
medicaid program. 57636

(B) If the department is unable to determine the amount of 57637  
the overpayments and other debts for any period before the 57638  
effective date of the entering operator's provider agreement or 57639  
the effective date of the facility closure, voluntary termination, 57640  
or voluntary withdrawal of participation, the department shall 57641  
make a reasonable estimate of the overpayments and other debts for 57642  
the period. The department shall make the estimate using 57643  
information available to the department, including prior 57644  
determinations of overpayments and other debts. 57645

**Sec. 5111.681.** (A) The department of job and family services 57646  
shall withhold the greater of the following from payment due an 57647  
exiting operator under the medicaid program: 57648

(1) The total amount of any overpayments made under the 57649  
medicaid program to the exiting operator, including overpayments 57650  
the exiting operator disputes, and other actual and potential 57651  
debts, including any unpaid penalties, the exiting operator owes 57652  
or may owe to the department and United States centers for 57653  
medicare and medicaid services under the medicaid program; 57654

(2) An amount equal to the average amount of monthly payments 57655  
to the exiting operator under the medicaid program for the 57656  
twelve-month period immediately preceding the month that includes 57657  
the last day the exiting operator's provider agreement is in 57658  
effect or, in the case of a voluntary withdrawal of participation, 57659  
the effective date of the voluntary withdrawal of participation. 57660

(B) The department may transfer the amount withheld under 57661  
division (A) of this section to an escrow account with a bank, 57662  
trust company, or savings and loan association. 57663

(C) If payment due an exiting operator under the medicaid 57664

program is less than the amount the department is required to 57665  
withhold under division (A) of this section, the department shall 57666  
require that the exiting operator provide the difference in the 57667  
form of a security. 57668

(D) The department shall release to the exiting operator the 57669  
actual amount withheld under division (A) of this section if the 57670  
department allows the exiting operator to provide the department a 57671  
security in the amount the department is required to withhold 57672  
under division (A) of this section, less any of that amount 57673  
provided to the department in the form of a security under 57674  
division (C) of this section. 57675

(E) Security provided to the department under division (C) or 57676  
(D) of this section shall be in either or both of the following 57677  
forms: 57678

(1) In the case of a change of operator, the entering 57679  
operator's nontransferable, unconditional, written agreement to 57680  
pay the department any debt the exiting operator owes the 57681  
department under the medicaid program; 57682

(2) In the case of a change of operator, facility closure, 57683  
voluntary termination, or voluntary withdrawal of participation, a 57684  
form of collateral or security acceptable to the department that 57685  
satisfies both of the following conditions: 57686

(a) Is at least equal to the amount the department is 57687  
required to withhold under division (A) of this section, less any 57688  
amounts the department has received through actual withholding or 57689  
one or more other forms of security under this division; 57690

(b) Is payable to the department if the exiting operator 57691  
fails to pay any debt owed the department under the medicaid 57692  
program within fifteen days of receiving the department's written 57693  
demand for payment of the debt. 57694

Sec. 5111.682. An entering operator that provides the 57695  
department of job and family services a security in the form 57696  
provided by division (E)(1) of section 5111.681 of the Revised 57697  
Code shall also provide the department a list of the entering 57698  
operator's assets and liabilities. The department shall determine 57699  
whether the assets are sufficient for the purpose of the security. 57700

Sec. 5111.683. (A) Except as provided in division (B) of this 57701  
section, an exiting operator shall file with the department of job 57702  
and family services a cost report not later than ninety days after 57703  
the last day the exiting operator's provider agreement is in 57704  
effect or, in the case of a voluntary withdrawal of participation, 57705  
the effective date of the voluntary withdrawal of participation. 57706  
The cost report shall cover the period that begins with the day 57707  
after the last day covered by the operator's most recent previous 57708  
cost report required by section 5111.26 of the Revised Code and 57709  
ends on the last day the exiting operator's provider agreement is 57710  
in effect or, in the case of a voluntary withdrawal of 57711  
participation, the effective date of the voluntary withdrawal of 57712  
participation. The cost report shall include, as applicable, all 57713  
of the following: 57714

(1) The sale price of the nursing facility or intermediate 57715  
care facility for the mentally retarded; 57716

(2) A final depreciation schedule that shows which assets are 57717  
transferred to the buyer and which assets are not transferred to 57718  
the buyer; 57719

(3) Any other information the department requires. 57720

(B) The department, at its sole discretion, may waive the 57721  
requirement that an exiting operator file a cost report in 57722  
accordance with division (A) of this section. 57723

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 57754  
are subject to an adjudication conducted in accordance with 57755  
Chapter 119. of the Revised Code. 57756

Sec. 5111.687. The department of job and family services 57757  
shall release the actual amount withheld under division (A) of 57758  
section 5111.681 of the Revised Code, and any security provided to 57759  
the department under that section, less any amount the exiting 57760  
operator owes the department and United States centers for 57761  
medicare and medicaid services under the medicaid program, as 57762  
follows: 57763

(A) Ninety-one days after the date the exiting operator files 57764  
a properly completed cost report required by section 5111.683 of 57765  
the Revised Code unless the department issues the report required 57766  
by section 5111.686 of the Revised Code not later than ninety days 57767  
after the date the exiting operator files the properly completed 57768  
cost report; 57769

(B) Not later than fifteen days after the exiting operator 57770  
agrees to a final fiscal audit resulting from the report required 57771  
by section 5111.686 of the Revised Code if the department issues 57772  
the report not later than ninety days after the date the exiting 57773  
operator files a properly completed cost report required by 57774  
section 5111.683 of the Revised Code; 57775

(C) One hundred eighty-one days after the date the department 57776  
waives the cost report requirement of section 5111.683 of the 57777  
Revised Code unless the department issues the report required by 57778  
section 5111.686 of the Revised Code not later than one hundred 57779  
eighty days after the date the department waives the cost report 57780  
requirement; 57781

(D) Not later than fifteen days after the exiting operator 57782  
agrees to a final fiscal audit resulting from the report required 57783  
by section 5111.686 of the Revised Code if the department issues 57784

the report not later than one hundred eighty days after the date 57785  
the department waives the cost report requirement of section 57786  
5111.683 of the Revised Code. 57787

**Sec. 5111.688.** If the actual amount the department of job and 57788  
family services withholds from an exiting operator under division 57789  
(A) of section 5111.681 of the Revised Code, and any security 57790  
provided to the department under that section, is inadequate to 57791  
pay the exiting operator's debt to the department and United 57792  
States centers for medicare and medicaid services under the 57793  
medicaid program or the department is required to release the 57794  
withholdings and security under section 5111.687 of the Revised 57795  
Code before the department is paid the exiting operator's debt, 57796  
the department shall collect the debt as follows: 57797

(A) From the exiting operator; 57798

(B) From the entering operator if the department is unable to 57799  
collect the entire debt from the exiting operator and the entering 57800  
operator entered into a provider agreement under section 5111.671 57801  
or 5111.672 of the Revised Code. The department may collect the 57802  
remaining debt by withholding the amount due from payments to the 57803  
entering operator under the medicaid program. The department may 57804  
enter into an agreement with the entering operator under which the 57805  
entering operator pays the remaining debt, with applicable 57806  
interest, in installments from withholdings from the entering 57807  
operator's payments under the medicaid program. 57808

**Sec. 5111.689.** The department of job and family services, at 57809  
its sole discretion, may release the amount withheld under 57810  
division (A) of section 5111.681 of the Revised Code, and any 57811  
security provided to the department under that section, if the 57812  
exiting operator submits to the department written notice of a 57813  
postponement of a change of operator, facility closure, voluntary 57814

termination, or voluntary withdrawal of participation and the 57815  
transactions leading to the change of operator, facility closure, 57816  
voluntary termination, or voluntary withdrawal of participation 57817  
are postponed for at least thirty days but less than ninety days 57818  
after the date originally proposed for the change of operator, 57819  
facility closure, voluntary termination, or voluntary withdrawal 57820  
of participation as reported in the written notice required by 57821  
section 5111.66 or 5111.67 of the Revised Code. The department 57822  
shall release the amount withheld and security if the exiting 57823  
operator submits to the department written notice of a 57824  
cancellation or postponement of a change of operator, facility 57825  
closure, voluntary termination, or voluntary withdrawal of 57826  
participation and the transactions leading to the change of 57827  
operator, facility closure, voluntary termination, or voluntary 57828  
withdrawal of participation are canceled, or postponed for more 57829  
than ninety days after the date originally proposed for the change 57830  
of operator, facility closure, voluntary termination, or voluntary 57831  
withdrawal of participation as reported in the written notice 57832  
required by section 5111.66 or 5111.67 of the Revised Code. 57833

After the department receives a written notice regarding a 57834  
cancellation or postponement of a facility closure, voluntary 57835  
termination, or voluntary withdrawal of participation, the exiting 57836  
operator or owner shall provide new written notice to the 57837  
department under section 5111.66 of the Revised Code regarding any 57838  
transactions leading to a facility closure, voluntary termination, 57839  
or voluntary withdrawal of participation at a future time. After 57840  
the department receives a written notice regarding a cancellation 57841  
or postponement of a change of operator, the exiting operator or 57842  
owner and entering operator shall provide new written notice to 57843  
the department under section 5111.67 of the Revised Code regarding 57844  
any transactions leading to a change of operator at a future time. 57845

**Sec. 5111.6810.** The director of job and family services may 57846

adopt rules in accordance with Chapter 119. of the Revised Code to 57847  
implement sections 5111.65 to 5111.6810 of the Revised Code, 57848  
including rules applicable to an exiting operator that provides 57849  
written notification under section 5111.66 of the Revised Code of 57850  
a voluntary withdrawal of participation. Rules adopted under this 57851  
section shall comply with section 1919(c)(2)(F) of the "Social 57852  
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 57853  
regarding restrictions on transfers or discharges of nursing 57854  
facility residents in the case of a voluntary withdrawal of 57855  
participation. The rules may prescribe a medicaid reimbursement 57856  
methodology and other procedures that are applicable after the 57857  
effective date of a voluntary withdrawal of participation that 57858  
differ from the reimbursement methodology and other procedures 57859  
that would otherwise apply. 57860

**Sec. 5111.85.** (A) As used in this section, "medicaid waiver 57861  
component" means a component of the medicaid program authorized by 57862  
a waiver granted by the United States department of health and 57863  
human services under section 1115 or 1915 of the "Social Security 57864  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 57865  
waiver component" does not include a ~~managed~~ care management 57866  
system established under section ~~5111.17~~ 5111.16 of the Revised 57867  
Code. 57868

(B) The director of job and family services may adopt rules 57869  
under Chapter 119. of the Revised Code governing medicaid waiver 57870  
components that establish all of the following: 57871

(1) Eligibility requirements for the medicaid waiver 57872  
components; 57873

(2) The type, amount, duration, and scope of services the 57874  
medicaid waiver components provide; 57875

(3) The conditions under which the medicaid waiver components 57876  
cover services; 57877

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	57878 57879
(5) The manner in which the medicaid waiver components pay for services;	57880 57881
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	57882 57883
(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.	57884 57885 57886 57887 57888 57889
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	57890 57891
(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.	57892 57893 57894 57895
(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.	57896 57897 57898 57899 57900 57901 57902 57903 57904 57905 57906
<b>Sec. 5111.87.</b> As used in this section and section 5111.871 of	57907

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 57939  
mental retardation and developmental disabilities shall adopt 57940  
rules in accordance with Chapter 119. of the Revised Code 57941  
governing the ~~component~~ components. 57942

If the department of mental retardation and developmental 57943  
disabilities or the department of job and family services denies 57944  
an individual's application for home and community-based services 57945  
provided under ~~this~~ any of these medicaid ~~component~~ components, 57946  
the department that denied the services shall give timely notice 57947  
to the individual that the individual may request a hearing under 57948  
section 5101.35 of the Revised Code. 57949

The departments of mental retardation and developmental 57950  
disabilities and job and family services may approve, reduce, 57951  
deny, or terminate a service included in the individualized 57952  
service plan developed for a medicaid recipient eligible for home 57953  
and community-based services provided under ~~this~~ any of these 57954  
medicaid ~~component~~ components. The departments shall consider the 57955  
recommendations a county board of mental retardation and 57956  
developmental disabilities makes under division (A)(1)(c) of 57957  
section 5126.055 of the Revised Code. If either department 57958  
approves, reduces, denies, or terminates a service, that 57959  
department shall give timely notice to the medicaid recipient that 57960  
the recipient may request a hearing under section 5101.35 of the 57961  
Revised Code. 57962

If supported living or residential services, as defined in 57963  
section 5126.01 of the Revised Code, are to be provided under ~~this~~ 57964  
~~component~~ any of these components, any person or government entity 57965  
with a current, valid medicaid provider agreement and a current, 57966  
valid license under section 5123.19 or certificate under section 57967  
5123.045 or 5126.431 of the Revised Code may provide the services. 57968

**Sec. 5111.872.** When the department of mental retardation and 57969

developmental disabilities allocates enrollment numbers to a 57970  
county board of mental retardation and developmental disabilities 57971  
for home and community-based services provided under any of the 57972  
~~component~~ components of the medicaid program that the department 57973  
administers under section 5111.871 of the Revised Code, the 57974  
department shall consider all of the following: 57975

(A) The number of individuals with mental retardation or 57976  
other developmental disability who are on a waiting list the 57977  
county board establishes under division (C) of section 5126.042 of 57978  
the Revised Code for those services and are given priority on the 57979  
waiting list pursuant to division (D) or (E) of that section; 57980

(B) The implementation component required by division (A)(4) 57981  
of section 5126.054 of the Revised Code of the county board's plan 57982  
approved under section 5123.046 of the Revised Code; 57983

(C) Anything else the department considers necessary to 57984  
enable county boards to provide those services to individuals in 57985  
accordance with the priority requirements of ~~division~~ divisions 57986  
(D) and (E) of section 5126.042 of the Revised Code. 57987

**Sec. 5111.873.** (A) Not later than the effective date of the 57988  
first of any medicaid waivers the United States secretary of 57989  
health and human services grants pursuant to a request made under 57990  
section 5111.87 of the Revised Code, the director of job and 57991  
family services shall adopt rules in accordance with Chapter 119. 57992  
of the Revised Code establishing statewide fee schedules for home 57993  
and community-based services provided under the ~~component~~ 57994  
components of the medicaid program that the department of mental 57995  
retardation and developmental disabilities administers under 57996  
section 5111.871 of the Revised Code. The rules shall provide for 57997  
all of the following: 57998

(1) The department of mental retardation and developmental 57999  
disabilities arranging for the initial and ongoing collection of 58000

cost information from a comprehensive, statistically valid sample 58001  
of persons and government entities providing the services at the 58002  
time the information is obtained; 58003

(2) The collection of consumer-specific information through 58004  
an assessment instrument the department of mental retardation and 58005  
developmental disabilities shall provide to the department of job 58006  
and family services; 58007

(3) With the information collected pursuant to divisions 58008  
(A)(1) and (2) of this section, an analysis of that information, 58009  
and other information the director determines relevant, methods 58010  
and standards for calculating the fee schedules that do all of the 58011  
following: 58012

(a) Assure that the fees are consistent with efficiency, 58013  
economy, and quality of care; 58014

(b) Consider the intensity of consumer resource need; 58015

(c) Recognize variations in different geographic areas 58016  
regarding the resources necessary to assure the health and welfare 58017  
of consumers; 58018

(d) Recognize variations in environmental supports available 58019  
to consumers. 58020

(B) As part of the process of adopting rules under this 58021  
section, the director shall consult with the director of mental 58022  
retardation and developmental disabilities, representatives of 58023  
county boards of mental retardation and developmental 58024  
disabilities, persons who provide the home and community-based 58025  
services, and other persons and government entities the director 58026  
identifies. 58027

(C) The directors of job and family services and mental 58028  
retardation and developmental disabilities shall review the rules 58029  
adopted under this section at times they determine to ensure that 58030

the methods and standards established by the rules for calculating 58031  
the fee schedules continue to do everything that division (A)(3) 58032  
of this section requires. 58033

Sec. 5111.911. Any contract the department of job and family 58034  
services enters into with the department of mental health or 58035  
department of alcohol and drug addiction services under section 58036  
5111.91 of the Revised Code is subject to the approval of the 58037  
director of budget and management and shall require or specify all 58038  
of the following: 58039

(A) In the case of a contract with the department of mental 58040  
health, that section 5111.912 of the Revised Code be complied 58041  
with; 58042

(B) In the case of a contract with the department of alcohol 58043  
and drug addiction services, that section 5111.913 of the Revised 58044  
Code be complied with; 58045

(C) How providers will be paid for providing the services; 58046

(D) The department of mental health's or department of 58047  
alcohol and drug addiction services' responsibilities for 58048  
reimbursing providers, including program oversight and quality 58049  
assurance. 58050

Sec. 5111.912. If the department of job and family services 58051  
enters into a contract with the department of mental health under 58052  
section 5111.91 of the Revised Code, the department of mental 58053  
health and boards of alcohol, drug addiction, and mental health 58054  
services shall pay the nonfederal share of any medicaid payment to 58055  
a provider for services under the component, or aspect of the 58056  
component, the department of mental health administers. 58057

Sec. 5111.913. If the department of job and family services 58058  
enters into a contract with the department of alcohol and drug 58059

addiction services under section 5111.91 of the Revised Code, the 58060  
department of alcohol and drug addiction services and boards of 58061  
alcohol, drug addiction, and mental health services shall pay the 58062  
nonfederal share of any medicaid payment to a provider for 58063  
services under the component, or aspect of the component, the 58064  
department of alcohol and drug addiction services administers. 58065

**Sec. 5111.92.** (A)(1) Except as provided in division (B) of 58066  
this section, if a state agency or political subdivision 58067  
administers one or more components of the medicaid program that 58068  
the United States department of health and human services 58069  
approved, and for which federal financial participation was 58070  
initially obtained, prior to January 1, 2002, or administers one 58071  
or more aspects of such a component, the department of job and 58072  
family services may retain or collect not more than ten per cent 58073  
of the federal financial participation the state agency or 58074  
political subdivision obtains through an approved, administrative 58075  
claim regarding the component or aspect of the component. If the 58076  
department retains or collects a percentage of such federal 58077  
financial participation, the percentage the department retains or 58078  
collects shall be specified in a contract the department enters 58079  
into with the state agency or political subdivision under section 58080  
5111.91 of the Revised Code. 58081

(2) Except as provided in division (B) of this section, if a 58082  
state agency or political subdivision administers one or more 58083  
components of the medicaid program that the United States 58084  
department of health and human services approved on or after 58085  
January 1, 2002, or administers one or more aspects of such a 58086  
component, the department of job and family services shall retain 58087  
or collect not less than three and not more than ten per cent of 58088  
the federal financial participation the state agency or political 58089  
subdivision obtains through an approved, administrative claim 58090  
regarding the component or aspect of the component. The percentage 58091

the department retains or collects shall be specified in a 58092  
contract the department enters into with the state agency or 58093  
political subdivision under section 5111.91 of the Revised Code. 58094

(B) The department of job and family services may retain or 58095  
collect a percentage of federal financial participation under 58096  
divisions (A)(1) and (2) of this section only to the extent 58097  
permitted by federal statutes and regulations and shall not retain 58098  
or collect a percentage of federal financial participation 58099  
obtained pursuant to section 5126.058 of the Revised Code. 58100

(C) All amounts the department retains or collects under this 58101  
section shall be deposited into the health care services 58102  
administration fund created under section 5111.94 of the Revised 58103  
Code. 58104

**Sec. 5111.94.** (A) As used in this section, "vendor offset" 58105  
means a reduction of a medicaid payment to a medicaid provider to 58106  
correct a previous, incorrect medicaid payment to that provider. 58107

(B) There is hereby created in the state treasury the health 58108  
care services administration fund. Except as provided in division 58109  
(C) of this section, all the following shall be deposited into the 58110  
fund: 58111

(1) Amounts deposited into the fund pursuant to sections 58112  
5111.92 and 5111.93 of the Revised Code; 58113

(2) The amount of the state share of all money the department 58114  
of job and family services, in fiscal year 2003 and each fiscal 58115  
year thereafter, recovers pursuant to a tort action under the 58116  
department's right of recovery under section 5101.58 of the 58117  
Revised Code that exceeds the state share of all money the 58118  
department, in fiscal year 2002, recovers pursuant to a tort 58119  
action under that right of recovery; 58120

(3) Subject to division (D) of this section, the amount of 58121

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. 58152

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 58153  
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(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs. "Waiver agency" does not include a person or government entity that provides home and community-based waiver services through components of the medicaid program being administered by the department of mental retardation and developmental disabilities pursuant to a contract entered into with the department of job and family services under section 5111.871 of the Revised Code. 58155  
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(4) "Home and community-based waiver services" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital. Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan. 58168  
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(B)(1) The chief administrator of a waiver agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information 58175  
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about the applicant from the federal bureau of investigation in a 58184  
criminal records check, the chief administrator shall request that 58185  
the superintendent obtain information from the federal bureau of 58186  
investigation as part of the criminal records check of the 58187  
applicant. Even if an applicant for whom a criminal records check 58188  
request is required under this division presents proof of having 58189  
been a resident of this state for the five-year period, the chief 58190  
administrator may request that the superintendent include 58191  
information from the federal bureau of investigation in the 58192  
criminal records check. 58193

(2) A person required by division (B)(1) of this section to 58194  
request a criminal records check shall do both of the following: 58195

(a) Provide to each applicant for whom a criminal records 58196  
check request is required under division (B)(1) of this section a 58197  
copy of the form prescribed pursuant to division (C)(1) of section 58198  
109.572 of the Revised Code and a standard fingerprint impression 58199  
sheet prescribed pursuant to division (C)(2) of that section, and 58200  
obtain the completed form and impression sheet from the applicant; 58201

(b) Forward the completed form and impression sheet to the 58202  
superintendent of the bureau of criminal identification and 58203  
investigation. 58204

(3) An applicant provided the form and fingerprint impression 58205  
sheet under division (B)(2)(a) of this section who fails to 58206  
complete the form or provide fingerprint impressions shall not be 58207  
employed in any position in a waiver agency for which a criminal 58208  
records check is required by this section. 58209

(C)(1) Except as provided in rules adopted by the department 58210  
of job and family services in accordance with division (F) of this 58211  
section and subject to division (C)(2) of this section, no waiver 58212  
agency shall employ a person in a position that involves providing 58213  
home and community-based waiver services to persons with 58214

disabilities if the person has been convicted of or pleaded guilty 58215  
to any of the following: 58216

(a) A violation of section 2903.01, 2903.02, 2903.03, 58217  
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 58218  
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 58219  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 58220  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 58221  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 58222  
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 58223  
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 58224  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 58225  
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 58226  
Revised Code, felonious sexual penetration in violation of former 58227  
section 2907.12 of the Revised Code, a violation of section 58228  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 58229  
violation of section 2919.23 of the Revised Code that would have 58230  
been a violation of section 2905.04 of the Revised Code as it 58231  
existed prior to July 1, 1996, had the violation been committed 58232  
prior to that date; 58233

(b) An existing or former law of this state, any other state, 58234  
or the United States that is substantially equivalent to any of 58235  
the offenses listed in division (C)(1)(a) of this section. 58236

(2)(a) A waiver agency may employ conditionally an applicant 58237  
for whom a criminal records check request is required under 58238  
division (B) of this section prior to obtaining the results of a 58239  
criminal records check regarding the individual, provided that the 58240  
agency shall request a criminal records check regarding the 58241  
individual in accordance with division (B)(1) of this section not 58242  
later than five business days after the individual begins 58243  
conditional employment. 58244

(b) A waiver agency that employs an individual conditionally 58245  
under authority of division (C)(2)(a) of this section shall 58246

terminate the individual's employment if the results of the 58247  
criminal records check request under division (B) of this section, 58248  
other than the results of any request for information from the 58249  
federal bureau of investigation, are not obtained within the 58250  
period ending sixty days after the date the request is made. 58251  
Regardless of when the results of the criminal records check are 58252  
obtained, if the results indicate that the individual has been 58253  
convicted of or pleaded guilty to any of the offenses listed or 58254  
described in division (C)(1) of this section, the agency shall 58255  
terminate the individual's employment unless the agency chooses to 58256  
employ the individual pursuant to division (F) of this section. 58257  
Termination of employment under this division shall be considered 58258  
just cause for discharge for purposes of division (D)(2) of 58259  
section 4141.29 of the Revised Code if the individual makes any 58260  
attempt to deceive the agency about the individual's criminal 58261  
record. 58262

(D)(1) Each waiver agency shall pay to the bureau of criminal 58263  
identification and investigation the fee prescribed pursuant to 58264  
division (C)(3) of section 109.572 of the Revised Code for each 58265  
criminal records check conducted pursuant to a request made under 58266  
division (B) of this section. 58267

(2) A waiver agency may charge an applicant a fee not 58268  
exceeding the amount the agency pays under division (D)(1) of this 58269  
section. An agency may collect a fee only if the agency notifies 58270  
the person at the time of initial application for employment of 58271  
the amount of the fee and that, unless the fee is paid, the person 58272  
will not be considered for employment. 58273

(E) The report of any criminal records check conducted 58274  
pursuant to a request made under this section is not a public 58275  
record for the purposes of section 149.43 of the Revised Code and 58276  
shall not be made available to any person other than the 58277  
following: 58278

(1) The individual who is the subject of the criminal records check or the individual's representative; 58279  
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(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative; 58281  
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(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant. 58283  
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(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department. 58287  
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(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. 58293  
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(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies. 58300  
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(2) This section shall not apply to a person to whom all of the following apply: 58307  
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(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. 58309  
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(b) The person previously had been the subject of a criminal background check relating to that position; 58313  
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 58315  
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**Sec. 5111.96.** (A) As used in this section: 58317

(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. 58318  
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 58321  
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(3) "The department" means the department of job and family services or its designee. 58323  
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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. 58325  
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code. 58331  
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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 58333  
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criminal records check is required to be conducted if the person 58338  
is to become an independent provider in a department administered 58339  
home and community-based waiver program. 58340

(2) Beginning on the effective date of this section, the 58341  
department shall inform each enrolled medicaid independent 58342  
provider on or before time of the anniversary date of the provider 58343  
agreement that involves providing home and community-based waiver 58344  
services to consumers with disabilities that the independent 58345  
provider is required to provide a set of fingerprint impressions 58346  
and that a criminal records check is required to be conducted. 58347

(C)(1) The department shall require the independent provider 58348  
to complete a criminal records check prior to entering into a 58349  
provider agreement with the independent provider and at least 58350  
annually thereafter. If an independent provider for whom a 58351  
criminal records check is required under this division does not 58352  
present proof of having been a resident of this state for the 58353  
five-year period immediately prior to the date the criminal 58354  
records check is requested or provide evidence that within that 58355  
five-year period the superintendent has requested information 58356  
about the applicant from the federal bureau of investigation in a 58357  
criminal records check, the department shall request the 58358  
independent provider obtain through the superintendent a criminal 58359  
records request from the federal bureau of investigation as part 58360  
of the criminal records check of the independent provider. Even if 58361  
an independent provider for whom a criminal records check request 58362  
is required under this division presents proof of having been a 58363  
resident of this state for the five-year period, the department 58364  
may request that the independent provider obtain information 58365  
through the superintendent from the federal bureau of 58366  
investigation in the criminal records check. 58367

(2) The department shall do both of the following: 58368

(a) Provide information to each independent provider for whom 58369

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 58402  
violation of section 2919.23 of the Revised Code that would have 58403  
been a violation of section 2905.04 of the Revised Code as it 58404  
existed prior to July 1, 1996, had the violation been committed 58405  
prior to that date; 58406

(2) An existing or former law of this state, any other state, 58407  
or the United States that is substantially equivalent to any of 58408  
the offenses listed in division (D)(1) of this section. 58409

(E) Each independent provider shall pay to the bureau of 58410  
criminal identification and investigation the fee prescribed 58411  
pursuant to division (C)(3) of section 109.572 of the Revised Code 58412  
for each criminal records check conducted pursuant to a request 58413  
made under division (C) of this section. 58414

(F) The report of any criminal records check conducted by the 58415  
bureau of criminal identification and investigation in accordance 58416  
with section 109.572 of the Revised Code and pursuant to a request 58417  
made under division (C) of this section is not a public record for 58418  
the purposes of section 149.43 of the Revised Code and shall not 58419  
be made available to any person other than the following: 58420

(1) The person who is the subject of the criminal records 58421  
check or the person's representative; 58422

(2) The administrator at the department who is requesting the 58423  
criminal records check or the administrator's representative; 58424

(3) Any court, hearing officer, or other necessary individual 58425  
involved in a case dealing with a denial or termination of a 58426  
provider agreement related to the criminal records check. 58427

(G) The department shall adopt rules in accordance with 58428  
Chapter 119. of the Revised Code to implement this section. The 58429  
rules shall specify circumstances under which the department may 58430  
issue a provider agreement to an independent provider who has been 58431  
convicted of or pleaded guilty to an offense listed or described 58432

in division (C)(1) of this section but meets personal character 58433  
standards set by the department. 58434

Sec. 5111.97. (A) The director of job and family services may 58435  
submit a request to the United States secretary of health and 58436  
human services pursuant to section 1915 of the "Social Security 58437  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 58438  
waivers of federal medicaid requirements that would otherwise be 58439  
violated in the creation and implementation of two medicaid home 58440  
and community-based services programs to replace the Ohio home 58441  
care program being operated pursuant to rules adopted under 58442  
sections 5111.01 and 5111.02 of the Revised Code and a medicaid 58443  
waiver granted prior to the effective date of this section. In the 58444  
request, the director may specify the following: 58445

(1) That one of the replacement programs will provide home 58446  
and community-based services to individuals in need of nursing 58447  
facility care, including individuals enrolled in the Ohio home 58448  
care program; 58449

(2) That the other replacement program will provide services 58450  
to individuals in need of hospital care, including individuals 58451  
enrolled in the Ohio home care program; 58452

(3) That there will be a maximum number of individuals who 58453  
may be enrolled in the replacement programs in addition to the 58454  
number of individuals to be transferred from the Ohio home care 58455  
program; 58456

(4) That there will be a maximum amount the department may 58457  
expend each year for each individual enrolled in the replacement 58458  
programs; 58459

(5) That there will be a maximum aggregate amount the 58460  
department may expend each year for all individuals enrolled in 58461  
the replacement programs; 58462

(6) Any other requirement the director selects for the replacement programs. 58463  
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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. 58465  
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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. 58470  
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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: 58478  
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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; 58483  
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(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code; 58488  
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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; 58490  
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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;	58493 58494 58495 58496 58497
(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;	58498 58499 58500
(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;	58501 58502 58503 58504 58505
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	58506 58507 58508
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.	58509 58510 58511
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	58512 58513 58514
(1) Recipients of the medical assistance program;	58515
(2) <u>Recipients of financial assistance provided under Chapter 5115. of the Revised Code;</u>	58516 58517
<u>(3)</u> Recipients of <del>disability assistance</del> medical assistance provided under Chapter 5115. of the Revised Code;	58518 58519
<del>(3)</del> <u>(4)</u> Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	58520 58521
<del>(4)</del> <u>(5)</u> Recipients of the medicare program established under	58522

Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 58523  
U.S.C.A. 301, as amended: 58524

~~(5)~~(6) Recipients of Title V of the "Social Security Act"; 58525

~~(6)~~(7) Any other category of costs deemed appropriate by the 58526  
director in accordance with Title XIX of the "Social Security Act" 58527  
and the rules adopted under that title. 58528

**Sec. 5112.08.** The director of job and family services shall 58529  
adopt rules under section 5112.03 of the Revised Code establishing 58530  
a methodology to pay hospitals that is sufficient to expend all 58531  
money in the indigent care pool. Under the rules: 58532

(A) The department of job and family services may classify 58533  
similar hospitals into groups and allocate funds for distribution 58534  
within each group. 58535

(B) The department shall establish a method of allocating 58536  
funds to hospitals, taking into consideration the relative amount 58537  
of indigent care provided by each hospital or group of hospitals. 58538  
The amount to be allocated shall be based on any combination of 58539  
the following indicators of indigent care that the director 58540  
considers appropriate: 58541

(1) Total costs, volume, or proportion of services to 58542  
recipients of the medical assistance program, including recipients 58543  
enrolled in health insuring corporations; 58544

(2) Total costs, volume, or proportion of services to 58545  
low-income patients in addition to recipients of the medical 58546  
assistance program, which may include recipients of Title V of the 58547  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 58548  
amended, and ~~disability~~ recipients of financial or medical 58549  
assistance ~~established~~ provided under Chapter 5115. of the Revised 58550  
Code; 58551

(3) The amount of uncompensated care provided by the hospital 58552

or group of hospitals; 58553

(4) Other factors that the director considers to be 58554  
appropriate indicators of indigent care. 58555

(C) The department shall distribute funds to each hospital or 58556  
group of hospitals in a manner that first may provide for an 58557  
additional distribution to individual hospitals that provide a 58558  
high proportion of indigent care in relation to the total care 58559  
provided by the hospital or in relation to other hospitals. The 58560  
department shall establish a formula to distribute the remainder 58561  
of the funds. The formula shall be consistent with section 1923 of 58562  
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 58563  
be based on any combination of the indicators of indigent care 58564  
listed in division (B) of this section that the director considers 58565  
appropriate. 58566

(D) The department shall distribute funds to each hospital in 58567  
installments not later than ten working days after the deadline 58568  
established in rules for each hospital to pay an installment on 58569  
its assessment under section 5112.06 of the Revised Code. In the 58570  
case of a governmental hospital that makes intergovernmental 58571  
transfers, the department shall pay an installment under this 58572  
section not later than ten working days after the earlier of that 58573  
deadline or the deadline established in rules for the governmental 58574  
hospital to pay an installment on its intergovernmental transfer. 58575  
If the amount in the hospital care assurance program fund and the 58576  
hospital care assurance match fund created under section 5112.18 58577  
of the Revised Code is insufficient to make the total 58578  
distributions for which hospitals are eligible to receive in any 58579  
period, the department shall reduce the amount of each 58580  
distribution by the percentage by which the amount is 58581  
insufficient. The department shall distribute to hospitals any 58582  
amounts not distributed in the period in which they are due as 58583  
soon as moneys are available in the funds. 58584

Sec. 5112.17. (A) As used in this section: 58585

(1) "Federal poverty guideline" means the official poverty 58586  
guideline as revised annually by the United States secretary of 58587  
health and human services in accordance with section 673 of the 58588  
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 58589  
U.S.C.A. 9902, as amended, for a family size equal to the size of 58590  
the family of the person whose income is being determined. 58591

(2) "Third-party payer" means any private or public entity or 58592  
program that may be liable by law or contract to make payment to 58593  
or on behalf of an individual for health care services. 58594  
"Third-party payer" does not include a hospital. 58595

(B) Each hospital that receives funds distributed under 58596  
sections 5112.01 to 5112.21 of the Revised Code shall provide, 58597  
without charge to the individual, basic, medically necessary 58598  
hospital-level services to individuals who are residents of this 58599  
state, are not recipients of the medical assistance program, and 58600  
whose income is at or below the federal poverty guideline. 58601  
Recipients of disability financial assistance and recipients of 58602  
disability medical assistance provided under Chapter 5115. of the 58603  
Revised Code qualify for services under this section. The director 58604  
of job and family services shall adopt rules under section 5112.03 58605  
of the Revised Code specifying the hospital services to be 58606  
provided under this section. 58607

(C) Nothing in this section shall be construed to prevent a 58608  
hospital from requiring an individual to apply for eligibility 58609  
under the medical assistance program before the hospital processes 58610  
an application under this section. Hospitals may bill any 58611  
third-party payer for services rendered under this section. 58612  
Hospitals may bill the medical assistance program, in accordance 58613  
with Chapter 5111. of the Revised Code and the rules adopted under 58614  
that chapter, for services rendered under this section if the 58615

individual becomes a recipient of the program. Hospitals may bill 58616  
individuals for services under this section if all of the 58617  
following apply: 58618

(1) The hospital has an established post-billing procedure 58619  
for determining the individual's income and canceling the charges 58620  
if the individual is found to qualify for services under this 58621  
section. 58622

(2) The initial bill, and at least the first follow-up bill, 58623  
is accompanied by a written statement that does all of the 58624  
following: 58625

(a) Explains that individuals with income at or below the 58626  
federal poverty guideline are eligible for services without 58627  
charge; 58628

(b) Specifies the federal poverty guideline for individuals 58629  
and families of various sizes at the time the bill is sent; 58630

(c) Describes the procedure required by division (C)(1) of 58631  
this section. 58632

(3) The hospital complies with any additional rules the 58633  
department adopts under section 5112.03 of the Revised Code. 58634

Notwithstanding division (B) of this section, a hospital 58635  
providing care to an individual under this section is subrogated 58636  
to the rights of any individual to receive compensation or 58637  
benefits from any person or governmental entity for the hospital 58638  
goods and services rendered. 58639

(D) Each hospital shall collect and report to the department, 58640  
in the form and manner prescribed by the department, information 58641  
on the number and identity of patients served pursuant to this 58642  
section. 58643

(E) This section applies beginning May 22, 1992, regardless 58644  
of whether the department has adopted rules specifying the 58645

services to be provided. Nothing in this section alters the scope 58646  
or limits the obligation of any governmental entity or program, 58647  
including the program awarding reparations to victims of crime 58648  
under sections 2743.51 to 2743.72 of the Revised Code and the 58649  
program for medically handicapped children established under 58650  
section 3701.023 of the Revised Code, to pay for hospital services 58651  
in accordance with state or local law. 58652

**Sec. 5112.31.** The department of job and family services 58653  
shall: 58654

(A) For the purpose of providing home and community-based 58655  
services for mentally retarded and developmentally disabled 58656  
persons, annually assess each intermediate care facility for the 58657  
mentally retarded a franchise permit fee equal to nine dollars and 58658  
~~twenty-four~~ sixty-three cents multiplied by the product of the 58659  
following: 58660

(1) The number of beds certified under Title XIX of the 58661  
"Social Security Act" on the first day of May of the calendar year 58662  
in which the assessment is determined pursuant to division (A) of 58663  
section 5112.33 of the Revised Code; 58664

(2) The number of days in the fiscal year beginning on the 58665  
first day of July of the same calendar year. 58666

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 58667  
day of each July thereafter, adjust fees determined under division 58668  
(A) of this section in accordance with the composite inflation 58669  
factor established in rules adopted under section 5112.39 of the 58670  
Revised Code. 58671

If the United States secretary of health and human services 58672  
determines that the franchise permit fee established by sections 58673  
5112.30 to 5112.39 of the Revised Code would be an impermissible 58674  
health care-related tax under section 1903(w) of the "Social 58675

Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 58676  
shall take all necessary actions to cease implementation of those 58677  
sections in accordance with rules adopted under section 5112.39 of 58678  
the Revised Code. 58679

**Sec. 5112.99.** (A) The director of job and family services 58680  
shall impose a penalty ~~of one hundred dollars~~ for each day that a 58681  
hospital fails to report the information required under section 58682  
5112.04 of the Revised Code on or before the dates specified in 58683  
that section. The amount of the penalty shall be established by 58684  
the director in rules adopted under section 5112.03 of the Revised 58685  
Code. 58686

(B) In addition to any other remedy available to the 58687  
department of job and family services under law to collect unpaid 58688  
assessments and transfers, the director shall impose a penalty of 58689  
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 58690  
~~dollars,~~ on any hospital that fails to pay assessments or make 58691  
intergovernmental transfers by the dates required by rules adopted 58692  
under section 5112.03 of the Revised Code. 58693

(C) The director shall waive the penalties provided for in 58694  
divisions (A) and (B) of this section for good cause shown by the 58695  
hospital. 58696

(D) All penalties imposed under this section shall be 58697  
deposited into the ~~general revenue~~ health care administration fund 58698  
created by section 5111.94 of the Revised Code. 58699

**Sec. 5115.01.** (A) ~~There is hereby established~~ The director of 58700  
job and family services shall establish the disability financial 58701  
assistance program. ~~Except as provided in division (D) of this~~ 58702  
~~section, a disability assistance recipient shall receive financial~~ 58703  
~~assistance. Except as provided in section 5115.11 of the Revised~~ 58704  
~~Code, a disability assistance recipient also shall receive~~ 58705

~~disability assistance medical assistance.~~ 58706

~~Except as provided by division (B) of this section, a person~~ 58707  
~~who meets all of the following requirements is (B) Subject to all~~ 58708  
~~other eligibility requirements established by this chapter and the~~ 58709  
~~rules adopted under it for the disability financial assistance~~ 58710  
~~program, a person may be eligible for disability financial~~ 58711  
~~assistance only if one of the following applies:~~ 58712

~~(1) The person is ineligible to participate in the Ohio works~~ 58713  
~~first program established under Chapter 5107. of the Revised Code~~ 58714  
~~and to receive supplemental security income provided pursuant to~~ 58715  
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 58716  
~~U.S.C.A. 1383, as amended;~~ 58717

~~(2) The person is at least one of the following:~~ 58718

~~(a) Under age eighteen;~~ 58719

~~(b) Age sixty or older;~~ 58720

~~(c) Pregnant;~~ 58721

~~(d) Unable unable to do any substantial or gainful activity~~ 58722  
~~by reason of a medically determinable physical or mental~~ 58723  
~~impairment that can be expected to result in death or has lasted~~ 58724  
~~or can be expected to last for not less than nine months;~~ 58725

~~(e) A resident of a residential treatment center certified as~~ 58726  
~~an alcohol or drug addiction program by the department of alcohol~~ 58727  
~~and drug addiction services under section 3793.06 of the Revised~~ 58728  
~~Code.~~ 58729

~~(f) Medication dependent as determined by a physician, as~~ 58730  
~~defined in section 4730.01 of the Revised Code, who has certified~~ 58731  
~~to the county department of job and family services that the~~ 58732  
~~person is receiving ongoing treatment for a chronic medical~~ 58733  
~~condition requiring continuous prescription medication for an~~ 58734  
~~indefinite, long term period of time and for whom the loss of the~~ 58735

~~medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.~~ 58736  
58737

~~(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:~~ 58738  
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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;~~ 58743  
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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.~~ 58746  
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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:~~ 58751  
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58753

~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 58754

~~(b) The time limit established by section 5107.18 of the Revised Code;~~ 58755  
58756

~~(c) Failure to comply with an application or verification procedure;~~ 58757  
58758

~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~ 58759  
58760

~~(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~~ 58761  
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~~ineligible assistance group. A person age eighteen or older is 58766  
ineligible for disability assistance pursuant to division 58767  
(B)(1)(a) of this section regardless of whether the person caused 58768  
the assistance group to be ineligible to participate in the Ohio 58769  
works first program. 58770~~

~~(C) The county department of job and family services that 58771  
serves the county in which a person receiving disability 58772  
assistance pursuant to division (A)(2)(c) of this section 58773  
participates in an alcohol or drug addiction program shall 58774  
designate a representative payee for purposes of receiving and 58775  
distributing financial assistance provided under the disability 58776  
assistance program to the person. 58777~~

~~(D) A person eligible for disability assistance pursuant to 58778  
division (A)(2)(f) of this section shall not receive financial 58779  
assistance. 58780~~

~~(E) The director of job and family services shall adopt rules 58781  
in accordance with section 111.15 of the Revised Code defining 58782  
terms and establishing standards for determining whether a person 58783  
meets a condition of disability assistance eligibility pursuant to 58784  
this section. 58785~~

**Sec. 5115.04 5115.02.** (A) An individual is not eligible for 58786  
disability financial assistance under this chapter if ~~either~~ any 58787  
of the following apply: 58788

~~(A)(1) The individual is eligible to participate in the Ohio 58789  
works first program established under Chapter 5107. of the Revised 58790  
Code; eligible to receive supplemental security income provided 58791  
pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 58792  
(1972), 42 U.S.C. 1383, as amended; or eligible to participate in 58793  
or receive assistance through another state or federal program 58794  
that provides financial assistance similar to disability financial 58795  
assistance, as determined by the director of job and family 58796~~

<u>services;</u>	58797
<u>(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:</u>	58798
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58799
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58800
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58801
<u>(b) Failure to comply with an application or verification procedure;</u>	58802
<u>(b) Failure to comply with an application or verification procedure;</u>	58803
<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>	58804
<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>	58805
<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>	58806
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58807
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58808
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58809
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58810
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58811
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58812
<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>	58813
<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>	58814
<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>	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>(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>	58818
<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>	58819
<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>	58820
<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>	58821
<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>	58822
<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>	58823
<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>	58824
<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>	58825
<u>(8) The individual reside in a county home, city infirmary,</u>	58826

jail, or public institution; 58827

(9) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code; 58828  
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~~(B)~~(10) The individual is violating a condition of probation, 58830  
a community control sanction, parole, or a post-release control 58831  
sanction imposed under federal or state law. 58832

(B)(1) As used in division (B)(2) of this section, 58833  
"assistance group" has the same meaning as in section 5107.02 of 58834  
the Revised Code. 58835

(2) Ineligibility under division (A)(2)(c) or (d) of this 58836  
section applies as follows: 58837

(a) In the case of an individual who is under eighteen years 58838  
of age, the individual is ineligible only if the individual caused 58839  
the assistance group to be ineligible to participate in the Ohio 58840  
works first program or resides with an individual eighteen years 58841  
of age or older who was a member of the same ineligible assistance 58842  
group. 58843

(b) In the case of an individual who is eighteen years of age 58844  
or older, the individual is ineligible regardless of whether the 58845  
individual caused the assistance group to be ineligible to 58846  
participate in the Ohio works first program. 58847

**Sec. 5115.03.** (A) The director of job and family services 58848  
shall ~~do both of the following:~~ 58849

~~(A) Adopt~~ adopt rules in accordance with section 111.15 of 58850  
the Revised Code governing the ~~administration of~~ disability 58851  
~~assistance, including the administration of~~ financial assistance 58852  
~~and disability assistance medical assistance~~ program. The rules 58853  
~~shall be binding on county departments of job and family services.~~ 58854

~~(B) Make investigations to determine whether disability~~ 58855  
~~assistance is being administered in compliance with the Revised~~ 58856

Code and rules adopted by the director. may establish or specify 58857  
any or all of the following: 58858

(1) Maximum payment amounts under the disability financial 58859  
assistance program, based on state appropriations for the program; 58860

(2) Limits on the length of time an individual may receive 58861  
disability financial assistance; 58862

(3) Limits on the total number of individuals in the state 58863  
who may receive disability financial assistance; 58864

(4) Income, resource, citizenship, age, residence, living 58865  
arrangement, and other eligibility requirements for disability 58866  
financial assistance; 58867

(5) Procedures for disregarding amounts of earned and 58868  
unearned income for the purpose of determining eligibility for 58869  
disability financial assistance and the amount of assistance to be 58870  
provided; 58871

(6) Procedures for including the income and resources, or a 58872  
certain amount of the income and resources, of a member of an 58873  
individual's family when determining eligibility for disability 58874  
financial assistance and the amount of assistance to be provided. 58875

(B) In establishing or specifying eligibility requirements 58876  
for disability financial assistance, the director shall exclude 58877  
the value of any tuition payment contract entered into under 58878  
section 3334.09 of the Revised Code or any scholarship awarded 58879  
under section 3334.18 of the Revised Code and the amount of 58880  
payments made by the Ohio tuition trust authority under section 58881  
3334.09 of the Revised Code pursuant to the contract or 58882  
scholarship. The director shall not require any individual to 58883  
terminate a tuition payment contract entered into under Chapter 58884  
3334. of the Revised Code as a condition of eligibility for 58885  
disability financial assistance. The director shall consider as 58886  
income any refund paid under section 3334.10 of the Revised Code. 58887

(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. 58888  
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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: 58897  
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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; 58900  
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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. 58904  
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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 58915  
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administrative function specified in rules adopted by the director 58919  
of job and family services, ~~including making determinations of~~ 58920  
~~financial eligibility and initial determinations of whether an~~ 58921  
~~applicant meets a condition of eligibility under division~~ 58922  
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 58923  
~~financial assistance payments, reimbursing providers of medical~~ 58924  
~~services for services provided to disability assistance~~ 58925  
~~recipients, and any other function specified in the rules. The~~ 58926  
~~department may also require county departments to make a final~~ 58927  
~~determination of whether an applicant meets a condition for~~ 58928  
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 58929  
~~section 5115.01 of the Revised Code. The department shall make the~~ 58930  
~~final determination of whether an applicant meets a condition of~~ 58931  
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 58932  
~~Revised Code.~~ 58933

(B) If the department requires county departments to perform 58934  
administrative functions under this section, the director shall 58935  
adopt rules in accordance with section 111.15 of the Revised Code 58936  
governing the performance of the functions to be performed by 58937  
county departments. County departments shall perform the functions 58938  
in accordance with the rules. The director shall conduct 58939  
investigations to determine whether disability financial 58940  
assistance is being administered in compliance with the Revised 58941  
Code and rules adopted by the director. 58942

(C) If disability financial assistance payments ~~or medical~~ 58943  
~~services reimbursements~~ are made by the county department of job 58944  
and family services, the department shall advance sufficient funds 58945  
to provide the county treasurer with the amount estimated for the 58946  
payments ~~or reimbursements~~. Financial assistance payments shall be 58947  
distributed in accordance with sections 117.45, 319.16, and 329.03 58948  
of the Revised Code. 58949

Sec. 5115.05. (A) The director of job and family services 58950  
shall adopt rules in accordance with section 111.15 of the Revised 58951  
Code establishing application and verification procedures, 58952  
reapplication procedures, and ~~income, resource, citizenship, age,~~ 58953  
~~residence, living arrangement, assistance group composition, and~~ 58954  
other eligibility requirements the director considers necessary in 58955  
the administration of the application process for disability 58956  
financial assistance. The rules may ~~provide for disregarding~~ 58957  
~~amounts of earned and unearned income for the purpose of~~ 58958  
~~determining whether an assistance group is eligible for assistance~~ 58959  
~~and the amount of assistance provided under this chapter. The~~ 58960  
rules also may provide that the income and resources, or a certain 58961  
amount of the income and resources, of a member of an assistance 58962  
group's family group will be included in determining whether the 58963  
assistance group is eligible for aid and the amount of aid 58964  
provided under this chapter. 58965

~~If financial assistance under this chapter is to be paid by~~ 58966  
~~the auditor of state through the medium of direct deposit, the~~ 58967  
~~application shall be accompanied by information the auditor needs~~ 58968  
~~to make direct deposits.~~ 58969

~~The department of job and family services may require~~ 58970  
recipients of disability financial assistance to participate in a 58971  
reapplication process two months after initial approval for 58972  
assistance has been determined and at such other times as 58973  
specified in the department requires rules. 58974

~~If a recipient of disability assistance, or the spouse of or~~ 58975  
~~member of the assistance group of a recipient, becomes possessed~~ 58976  
~~of resources or income in excess of the amount allowed under rules~~ 58977  
~~adopted under this section, or if other changes occur that affect~~ 58978  
~~the person's eligibility or need for assistance, the recipient~~ 58979  
shall notify the department or county department of job and family 58980

~~services within the time limits specified in the rules. Failure of 58981  
a recipient to report possession of excess resources or income or 58982  
a change affecting eligibility or need within those time limits 58983  
shall be considered prima facie evidence of intent to defraud 58984  
under section 5115.15 of the Revised Code. 58985~~

~~Each applicant for or recipient of disability assistance 58986  
shall make reasonable efforts to secure support from persons 58987  
responsible for the applicant's or recipient's support, and from 58988  
other sources, as a means of preventing or reducing the provision 58989  
of disability assistance at public expense. The department or 58990  
county department may provide assistance to the applicant or 58991  
recipient in securing other forms of financial or medical 58992  
assistance. 58993~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 58994  
disability assistance applicant or recipient who is at least 58995  
eighteen but under twenty two years of age resides with the 58996  
applicant's or recipient's parents, the income of the parents 58997  
shall be taken into account in determining the applicant's or 58998  
recipient's financial eligibility. The director shall adopt rules 58999  
for determining the amount of income to be attributed to the 59000  
assistance group of applicants in this age category. 59001~~

~~(B) Any person who applies for disability financial 59002  
assistance under this section shall receive a voter registration 59003  
application under section 3503.10 of the Revised Code. 59004~~

~~**Sec. 5115.07** **5115.06.** Financial assistance Assistance under 59005  
the disability financial assistance program may be given by 59006  
warrant, direct deposit, or, if provided by the director of job 59007  
and family services pursuant to section 5101.33 of the Revised 59008  
Code, by electronic benefit transfer. It shall be inalienable 59009  
whether by way of assignment, charge, or otherwise, and is exempt 59010  
from attachment, garnishment, or other like process. ~~Any~~ 59011~~

Any direct deposit shall be made to a financial institution 59012  
and account designated by the recipient. ~~The~~ If disability 59013  
financial assistance is to be paid by the auditor of state through 59014  
direct deposit, the application for assistance shall be 59015  
accompanied by information the auditor needs to make direct 59016  
deposits. 59017

The director of job and family services may adopt rules for 59018  
designation of financial institutions and accounts. ~~No~~ 59019

No financial institution shall impose any charge for direct 59020  
deposit of disability ~~assistance~~ financial assistance payments 59021  
that it does not charge all customers for similar services. 59022

~~The department of job and family services shall establish~~ 59023  
~~financial assistance payment amounts based on state~~ 59024  
~~appropriations.~~ 59025

~~Disability assistance may be given to persons living in their~~ 59026  
~~own homes or other suitable quarters, but shall not be given to~~ 59027  
~~persons who reside in a county home, city infirmary, jail, or~~ 59028  
~~public institution. Disability assistance shall not be given to an~~ 59029  
~~unemancipated child unless the child lives with the child's~~ 59030  
~~parents, guardians, or other persons standing in place of parents.~~ 59031  
~~For the purpose of this section, a child is emancipated if the~~ 59032  
~~child is married, serving in the armed forces, or has been~~ 59033  
~~emancipated by court order.~~ 59034

~~No person shall be eligible for disability assistance if, for~~ 59035  
~~the purpose of avoiding consideration of property in~~ 59036  
~~determinations of the person's eligibility for disability~~ 59037  
~~assistance or a greater amount of assistance, the person has~~ 59038  
~~transferred property during the two years preceding application~~ 59039  
~~for or most recent redetermination of eligibility for disability~~ 59040  
~~assistance.~~ 59041

~~Sec. 5115.13~~ 5115.07. The acceptance of ~~disability~~ financial 59042  
assistance under ~~this chapter~~ the disability financial assistance 59043  
program constitutes an assignment to the department of job and 59044  
family services of any rights an individual receiving ~~disability~~ 59045  
the assistance has to financial support from any other person, 59046  
~~excluding medical support assigned pursuant to section 5101.59 of~~ 59047  
~~the Revised Code~~. The rights to support assigned to the department 59048  
pursuant to this section constitute an obligation of the person 59049  
responsible for providing the support to the state for the amount 59050  
of disability financial assistance payments to the recipient or 59051  
recipients whose needs are included in determining the amount of 59052  
~~disability~~ assistance received. Support payments assigned to the 59053  
state pursuant to this section shall be collected by the county 59054  
department of job and family services and reimbursements for 59055  
disability financial assistance payments shall be credited to the 59056  
state treasury. 59057

~~Sec. 5115.10~~. (A) The director of job and family services 59058  
shall establish a disability ~~assistance~~ medical assistance program 59059  
~~shall consist of a system of managed primary care. Until July 1,~~ 59060  
~~1992, the program shall also include limited hospital services,~~ 59061  
~~except that if prior to that date hospitals are required by~~ 59062  
~~section 5112.17 of the Revised Code to provide medical services~~ 59063  
~~without charge to persons specified in that section, the program~~ 59064  
~~shall cease to include hospital services at the time the~~ 59065  
~~requirement of section 5112.17 of the Revised Code takes effect.~~ 59066

~~The department of job and family services may require~~ 59067  
~~disability assistance medical assistance recipients to enroll in~~ 59068  
~~health insuring corporations or other managed care programs, or~~ 59069  
~~may limit the number or type of health care providers from which a~~ 59070  
~~recipient may receive services.~~ 59071

~~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;~~ 59102  
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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.~~ 59104  
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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.~~ 59108  
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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~~ 59121  
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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. 59123  
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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: 59129  
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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: 59133  
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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; 59137  
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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. 59140  
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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; 59143  
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent. 59147  
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**Sec. 5115.11.** ~~If a member of an assistance group receiving disability assistance under this chapter~~ An individual who 59150  
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qualifies for the medical assistance program established under 59152  
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 59153  
medical assistance through that program rather than through the 59154  
disability ~~assistance~~ medical assistance program. 59155

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. 59156  
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Sec. 5115.12. (A) The director of job and family services 59163  
shall adopt rules in accordance with section 111.15 of the Revised 59164  
Code governing the disability medical assistance program. The 59165  
rules may establish or specify any or all of the following: 59166

(1) Income, resource, citizenship, age, residence, living 59167  
arrangement, and other eligibility requirements; 59168

(2) Health services to be included in the program; 59169

(3) The maximum authorized amount, scope, duration, or limit 59170  
of payment for services; 59171

(4) Limits on the length of time an individual may receive 59172  
disability medical assistance; 59173

(5) Limits on the total number of individuals in the state 59174  
who may receive disability medical assistance. 59175

(B) For purposes of limiting the cost of the disability 59176  
medical assistance program, the director may do either of the 59177  
following: 59178

(1) Adopt rules in accordance with section 111.15 of the 59179  
Revised Code that revise the program's eligibility requirements; 59180  
the maximum authorized amount, scope, duration, or limit of 59181  
payment for services included in the program; or any other 59182  
requirement or standard established or specified by rules adopted 59183  
under division (A) of this section or under section 5115.10 of the 59184  
Revised Code; 59185

(2) Suspend acceptance of applications for disability medical 59186  
assistance. While a suspension is in effect, no person shall 59187  
receive a determination or redetermination of eligibility for 59188  
disability medical assistance unless the person was receiving the 59189  
assistance during the month immediately preceding the suspension's 59190  
effective date or the person submitted an application prior to the 59191  
suspension's effective date and receives a determination of 59192

eligibility based on that application. The director may adopt 59193  
rules in accordance with section 111.15 of the Revised Code 59194  
establishing requirements and specifying procedures applicable to 59195  
the suspension of acceptance of new applications. 59196

**Sec. 5115.13.** (A) The department of job and family services 59197  
shall supervise and administer the disability medical program, 59198  
except as follows: 59199

(1) The department may require county departments of job and 59200  
family services to perform any administrative function specified 59201  
in rules adopted by the director of job and family services. 59202

(2) The director may contract with any private or public 59203  
entity in this state to perform any administrative function or to 59204  
administer any or all of the program. 59205

(B) If the department requires county departments to perform 59206  
administrative functions, the director of job and family services 59207  
shall adopt rules in accordance with section 111.15 of the Revised 59208  
Code governing the performance of the functions to be performed by 59209  
county departments. County departments shall perform the functions 59210  
in accordance with the rules. 59211

If the director contracts with a private or public entity to 59212  
perform administrative functions or to administer any or all of 59213  
the program, the director may either adopt rules in accordance 59214  
with section 111.15 of the Revised Code or include provisions in 59215  
the contract governing the performance of the functions by the 59216  
private or public entity. Entities under contract shall perform 59217  
the functions in accordance with the requirements established by 59218  
the director. 59219

(C) Whenever division (A)(1) or (2) of this section is 59220  
implemented, the director shall conduct investigations to 59221  
determine whether disability medical assistance is being 59222

administered in compliance with the Revised Code and rules adopted 59223  
by the director or in accordance with the terms of the contract. 59224

Sec. 5115.14. (A) The director of job and family services 59225  
shall adopt rules in accordance with section 111.15 of the Revised 59226  
Code establishing application and verification procedures, 59227  
reapplication procedures, and other requirements the director 59228  
considers necessary in the administration of the application 59229  
process for disability medical assistance. 59230

(B) Any person who applies for disability medical assistance 59231  
shall receive a voter registration application under section 59232  
3503.10 of the Revised Code. 59233

Sec. 5115.20. (A) The department of job and family services 59234  
shall establish a disability advocacy program and each county 59235  
department of job and family services shall establish a disability 59236  
advocacy program unit or join with other county departments of job 59237  
and family services to establish a joint county disability 59238  
advocacy program unit. Through the program the department and 59239  
county departments shall cooperate in efforts to assist applicants 59240  
for and recipients of assistance under ~~this chapter~~ the disability 59241  
financial assistance program and the disability medical assistance 59242  
program, who might be eligible for supplemental security income 59243  
benefits under Title XVI of the "Social Security Act," 86 Stat. 59244  
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 59245  
benefits. The 59246

As part of their disability advocacy programs, the state 59247  
department and county departments may enter into contracts for the 59248  
services to applicants for and recipients of assistance under this 59249  
chapter who might be eligible for supplemental security income 59250  
benefits with of persons and ~~governmental~~ government entities that 59251  
in the judgment of the department or county department have 59252

demonstrated expertise in representing persons seeking 59253  
supplemental security income benefits. Each contract shall require 59254  
the person or entity with which a department contracts to assess 59255  
each person referred to it by the department to determine whether 59256  
the person appears to be eligible for supplemental security income 59257  
benefits, and, if the person appears to be eligible, assist the 59258  
person in applying and represent the person in any proceeding of 59259  
the social security administration, including any appeal or 59260  
reconsideration of a denial of benefits. The department or county 59261  
department shall provide to the person or entity with which it 59262  
contracts all records in its possession relevant to the 59263  
application for supplemental security income benefits. The 59264  
department shall require a county department with relevant records 59265  
to submit them to the person or entity. 59266

(B) Each applicant for or recipient of disability financial 59267  
assistance or disability medical assistance ~~under this chapter~~ 59268  
who, in the judgment of the department or a county department 59269  
might be eligible for supplemental security benefits, ~~must~~ shall, 59270  
as a condition of eligibility for assistance, apply for such 59271  
benefits if directed to do so by the department or county 59272  
department. 59273

(C) ~~Each~~ With regard to applicants for and recipients of 59274  
disability financial assistance or disability medical assistance, 59275  
each county department of job and family services shall do all of 59276  
the following: 59277

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 59278  
~~under this chapter~~ who might be eligible for supplemental security 59279  
income benefits; 59280

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 59281  
~~this chapter~~ in securing documentation of disabling conditions or 59282  
refer them for such assistance to a person or government ~~agency~~ 59283  
entity with which the department or county department has 59284

contracted under division (A) of this section; 59285

(3) Inform applicants ~~for~~ and recipients ~~of assistance under~~ 59286  
~~this chapter~~ of available sources of representation, which may 59287  
include a person or government entity with which the department or 59288  
county department has contracted under division (A) of this 59289  
section, and of their right to represent themselves in 59290  
reconsiderations and appeals of social security administration 59291  
decisions that deny them supplemental security income benefits. 59292  
The county department may require the applicants and recipients, 59293  
as a condition of eligibility for assistance, to pursue 59294  
reconsiderations and appeals of social security administration 59295  
decisions that deny them supplemental security income benefits, 59296  
and shall assist applicants and recipients as necessary to obtain 59297  
such benefits or refer them to a person or government ~~agency~~ 59298  
entity with which the department or county department has 59299  
contracted under division (A) of this section. 59300

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 59301  
~~this chapter~~ who, in the judgment of the county department, are or 59302  
may be aged, blind, or disabled, to apply for medical assistance 59303  
under Chapter 5111. of the Revised Code, make determinations when 59304  
appropriate as to eligibility for medical assistance, and refer 59305  
their applications when necessary to the disability determination 59306  
unit established in accordance with division (F) of this section 59307  
for expedited review; 59308

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 59309  
~~assistance under this chapter~~ who in the judgment of the 59310  
department or the county department might be eligible for 59311  
supplemental security income benefits, as a condition of 59312  
eligibility for disability financial assistance or disability 59313  
medical assistance ~~under this chapter~~, to execute a written 59314  
authorization for the secretary of health and human services to 59315  
withhold benefits due that individual and pay to the director of 59316

job and family services or the director's designee an amount 59317  
sufficient to reimburse the state and county shares of interim 59318  
assistance furnished to the individual. For the purposes of 59319  
division (C)(5) of this section, "benefits" and "interim 59320  
assistance" have the meanings given in Title XVI of the "Social 59321  
Security Act." 59322

(D) The director of job and family services shall adopt rules 59323  
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 59324  
for the effective administration of the disability advocacy 59325  
program. The rules shall include all of the following: 59326

(1) Methods to be used in collecting information from and 59327  
disseminating it to county departments, including the following: 59328

(a) The number of individuals in the county who are disabled 59329  
recipients of disability financial assistance or disability 59330  
medical assistance ~~under this chapter in the county;~~ 59331

(b) The final decision made either by the social security 59332  
administration or by a court for each application or 59333  
reconsideration in which an individual was assisted pursuant to 59334  
this section. 59335

(2) The type and process of training to be provided by the 59336  
department of job and family services to the employees of the 59337  
county department of job and family services who perform duties 59338  
under this section; 59339

(3) Requirements for the written authorization required by 59340  
division (C)(5) of this section. 59341

(E) The department shall provide basic and continuing 59342  
training to employees of the county department of job and family 59343  
services who perform duties under this section. Training shall 59344  
include but not be limited to all processes necessary to obtain 59345  
federal disability benefits, and methods of advocacy. 59346

(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. 59378

(B) As a condition of eligibility for disability financial 59379  
assistance or disability medical assistance, and as a means of 59380  
preventing or reducing the provision of assistance at public 59381  
expense, each applicant for or recipient of the assistance shall 59382  
make reasonable efforts to secure support from persons responsible 59383  
for the applicant's or recipient's support, and from other 59384  
sources, including any federal program designed to provide 59385  
assistance to individuals with disabilities. The state or county 59386  
department of job and family services may provide assistance to 59387  
the applicant or recipient in securing other forms of financial 59388  
assistance. 59389

**Sec. 5115.15 5115.23.** As used in this section, "erroneous 59390  
payments" means disability financial assistance payments, 59391  
~~including~~ or disability ~~assistance~~ medical assistance payments, 59392  
made to persons who are not entitled to receive them, including 59393  
payments made as a result of misrepresentation or fraud, and 59394  
payments made due to an error by the recipient or by the county 59395  
department of job and family services that made the payment. 59396

The department of job and family services shall adopt rules 59397  
in accordance with section 111.15 of the Revised Code specifying 59398  
the circumstances under which action is to be taken under this 59399  
section to recover erroneous payments. The department, or a county 59400  
department of job and family services at the request of the 59401  
department, shall take action to recover erroneous payments in the 59402  
circumstances specified in the rules. The department or county 59403  
department may institute a civil action to recover erroneous 59404  
payments. 59405

Whenever disability financial assistance or disability 59406  
medical assistance has been furnished to a recipient for whose 59407  
support another person is responsible, the other person shall, in 59408

addition to the liability otherwise imposed, as a consequence of 59409  
failure to support the recipient, be liable for all disability 59410  
assistance furnished the recipient. The value of the assistance so 59411  
furnished may be recovered in a civil action brought by the county 59412  
department of job and family services. 59413

Each county department of job and family services shall 59414  
retain fifty per cent of the erroneous payments it recovers under 59415  
this section. The department of job and family services shall 59416  
receive the remaining fifty per cent. 59417

**Sec. 5119.61.** Any provision in this chapter that refers to a 59418  
board of alcohol, drug addiction, and mental health services also 59419  
refers to the community mental health board in an alcohol, drug 59420  
addiction, and mental health service district that has a community 59421  
mental health board. 59422

The director of mental health with respect to all facilities 59423  
and programs established and operated under Chapter 340. of the 59424  
Revised Code for mentally ill and emotionally disturbed persons, 59425  
shall do all of the following: 59426

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 59427  
that may be necessary to carry out the purposes of Chapter 340. 59428  
and sections 5119.61 to 5119.63 of the Revised Code. 59429

(1) The rules shall include all of the following: 59430

(a) Rules governing a community mental health agency's 59431  
services under section 340.091 of the Revised Code to an 59432  
individual referred to the agency under division (C)(2) of section 59433  
173.35 of the Revised Code; 59434

(b) For the purpose of division (A)(16) of section 340.03 of 59435  
the Revised Code, rules governing the duties of mental health 59436  
agencies and boards of alcohol, drug addiction, and mental health 59437  
services under section 3722.18 of the Revised Code regarding 59438

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 59470  
district now residing in state mental institutions, approve and 59471  
allocate funds to support community programs, and make 59472  
recommendations for needed improvements to boards of alcohol, drug 59473  
addiction, and mental health services; 59474

(C) Withhold state and federal funds for any program, in 59475  
whole or in part, from a board of alcohol, drug addiction, and 59476  
mental health services in the event of failure of that program to 59477  
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 59478  
or 5119.62 of the Revised Code or rules of the department of 59479  
mental health. The director shall identify the areas of 59480  
noncompliance and the action necessary to achieve compliance. The 59481  
director shall offer technical assistance to the board to achieve 59482  
compliance. The director shall give the board a reasonable time 59483  
within which to comply or to present its position that it is in 59484  
compliance. Before withholding funds, a hearing shall be conducted 59485  
to determine if there are continuing violations and that either 59486  
assistance is rejected or the board is unable to achieve 59487  
compliance. Subsequent to the hearing process, if it is determined 59488  
that compliance has not been achieved, the director may allocate 59489  
all or part of the withheld funds to a public or private agency to 59490  
provide the services not in compliance until the time that there 59491  
is compliance. The director shall establish rules pursuant to 59492  
Chapter 119. of the Revised Code to implement this division. 59493

(D) Withhold state or federal funds from a board of alcohol, 59494  
drug addiction, and mental health services that denies available 59495  
service on the basis of religion, race, color, creed, sex, 59496  
national origin, age, disability as defined in section 4112.01 of 59497  
the Revised Code, developmental disability, or the inability to 59498  
pay; 59499

(E) Provide consultative services to community mental health 59500  
agencies with the knowledge and cooperation of the board of 59501

alcohol, drug addiction, and mental health services; 59502

(F) Provide to boards of alcohol, drug addiction, and mental 59503  
health services state or federal funds, in addition to those 59504  
allocated under section 5119.62 of the Revised Code, for special 59505  
programs or projects the director considers necessary but for 59506  
which local funds are not available; 59507

(G) Establish criteria by which a board of alcohol, drug 59508  
addiction, and mental health services reviews and evaluates the 59509  
quality, effectiveness, and efficiency of services provided 59510  
through its community mental health plan. The criteria shall 59511  
include requirements ensuring appropriate service utilization. The 59512  
department shall assess a board's evaluation of services and the 59513  
compliance of each board with this section, Chapter 340. or 59514  
section 5119.62 of the Revised Code, and other state or federal 59515  
law and regulations. The department, in cooperation with the 59516  
board, periodically shall review and evaluate the quality, 59517  
effectiveness, and efficiency of services provided through each 59518  
board. The department shall collect information that is necessary 59519  
to perform these functions. 59520

(H) Develop and operate a community mental health information 59521  
system. 59522

Boards of alcohol, drug abuse, and mental health services 59523  
shall submit information requested by the department in the form 59524  
and manner prescribed by the department. Information collected by 59525  
the department shall include, but not be limited to, all of the 59526  
following: 59527

(1) Information regarding units of services provided in whole 59528  
or in part under contract with a board, including diagnosis and 59529  
special needs, demographic information, the number of units of 59530  
service provided, past treatment, financial status, and service 59531  
dates in accordance with rules adopted by the department in 59532

accordance with Chapter 119. of the Revised Code; 59533

(2) Financial information other than price or price-related 59534  
data regarding expenditures of boards and community mental health 59535  
agencies, including units of service provided, budgeted and actual 59536  
expenses by type, and sources of funds. 59537

Boards shall submit the information specified in division 59538  
(H)(1) of this section no less frequently than annually for each 59539  
client, and each time the client's case is opened or closed. The 59540  
department shall not collect any information for the purpose of 59541  
identifying by name any person who receives a service through a 59542  
board of alcohol, drug addiction, and mental health services, 59543  
except as required by state or federal law to validate appropriate 59544  
reimbursement. For the purposes of division (H)(1) of this 59545  
section, the department shall use an identification system that is 59546  
consistent with applicable nationally recognized standards. 59547

(I) Review each board's community mental health plan 59548  
submitted pursuant to section 340.03 of the Revised Code and 59549  
approve or disapprove it in whole or in part. Periodically, in 59550  
consultation with representatives of boards and after considering 59551  
the recommendations of the medical director, the director shall 59552  
issue criteria for determining when a plan is complete, criteria 59553  
for plan approval or disapproval, and provisions for conditional 59554  
approval. The factors that the director considers may include, but 59555  
are not limited to, the following: 59556

(1) The mental health needs of all persons residing within 59557  
the board's service district, especially severely mentally 59558  
disabled children, adolescents, and adults; 59559

(2) The demonstrated quality, effectiveness, efficiency, and 59560  
cultural relevance of the services provided in each service 59561  
district, the extent to which any services are duplicative of 59562  
other available services, and whether the services meet the needs 59563

identified above; 59564

(3) The adequacy of the board's accounting for the 59565  
expenditure of funds. 59566

If the director disapproves all or part of any plan, the 59567  
director shall provide the board an opportunity to present its 59568  
position. The director shall inform the board of the reasons for 59569  
the disapproval and of the criteria that must be met before the 59570  
plan may be approved. The director shall give the board a 59571  
reasonable time within which to meet the criteria, and shall offer 59572  
technical assistance to the board to help it meet the criteria. 59573

If the approval of a plan remains in dispute thirty days 59574  
prior to the conclusion of the fiscal year in which the board's 59575  
current plan is scheduled to expire, the board or the director may 59576  
request that the dispute be submitted to a mutually agreed upon 59577  
third-party mediator with the cost to be shared by the board and 59578  
the department. The mediator shall issue to the board and the 59579  
department recommendations for resolution of the dispute. Prior to 59580  
the conclusion of the fiscal year in which the current plan is 59581  
scheduled to expire, the director, taking into consideration the 59582  
recommendations of the mediator, shall make a final determination 59583  
and approve or disapprove the plan, in whole or in part. 59584

**Sec. 5119.611.** (A) A board of alcohol, drug addiction, and 59585  
mental health services may not contract with a community mental 59586  
health agency under division (A)(8)(a) of section 340.03 of the 59587  
Revised Code to provide community mental health services included 59588  
in the board's community mental health plan unless the services 59589  
are certified by the director of mental health under this section. 59590

A community mental health agency that seeks the director's 59591  
certification of its community mental health services shall submit 59592  
an application to the director. On receipt of the application, the 59593  
director may visit and shall evaluate the agency to determine 59594

whether its services satisfy the standards established by rules 59595  
adopted under division (C) of this section. The director shall 59596  
make the evaluation, and, if the director visits the agency, shall 59597  
make the visit, in cooperation with the board of alcohol, drug 59598  
addiction, and mental health services with which the agency seeks 59599  
to contract. 59600

If the director determines that a community mental health 59601  
agency's services satisfy the standards, the director shall 59602  
certify the services. 59603

If the director determines that a community mental health 59604  
agency's services do not satisfy the standards, the director shall 59605  
identify the areas of noncompliance, specify what action is 59606  
necessary to satisfy the standards, and offer technical assistance 59607  
to the board of alcohol, drug addiction, and mental health 59608  
services so that the board may assist the agency in satisfying the 59609  
standards. The director shall give the agency a reasonable time 59610  
within which to demonstrate that its services satisfy the 59611  
standards or to bring the services into compliance with the 59612  
standards. If the director concludes that the services continue to 59613  
fail to satisfy the standards, the director may request that the 59614  
board reallocate the funds for the community mental health 59615  
services the agency was to provide to another community mental 59616  
health agency whose community mental health services satisfy the 59617  
standards. If the board does not reallocate those funds in a 59618  
reasonable period of time, the director may withhold state and 59619  
federal funds for the community mental health services and 59620  
allocate those funds directly to a community mental health agency 59621  
whose community mental health services satisfy the standards. 59622

(B) Each community mental health agency seeking certification 59623  
of its community mental health services under this section shall 59624  
pay a fee for the certification review required by this section. 59625  
Fees shall be paid into the sale of goods and services fund 59626

created pursuant to section 5119.161 of the Revised Code. 59627

(C) The director shall adopt rules in accordance with Chapter 59628  
119. of the Revised Code to implement this section. The rules 59629  
shall do all of the following: 59630

(1) Establish certification standards for community mental 59631  
health services, including assertive community treatment and 59632  
intensive home-based mental health services, that are consistent 59633  
with nationally recognized applicable standards and facilitate 59634  
participation in federal assistance programs. The rules shall 59635  
include as certification standards only requirements that improve 59636  
the quality of services or the health and safety of clients of 59637  
community mental health services. The standards shall address at a 59638  
minimum all of the following: 59639

(a) Reporting major unusual incidents to the director; 59640

(b) Procedures for applicants for and clients of community 59641  
mental health services to file grievances and complaints; 59642

(c) Seclusion; 59643

(d) Restraint; 59644

(e) Development of written policies addressing the rights of 59645  
clients, including all of the following: 59646

(i) The right to a copy of the written policies addressing 59647  
client rights; 59648

(ii) The right at all times to be treated with consideration 59649  
and respect for the client's privacy and dignity; 59650

(iii) The right to have access to the client's own 59651  
psychiatric, medical, or other treatment records unless access is 59652  
specifically restricted in the client's treatment plan for clear 59653  
treatment reasons; 59654

(iv) The right to have a client rights officer provided by 59655  
the agency or board of alcohol, drug addiction, and mental health 59656

services advise the client of the client's rights, including the 59657  
client's rights under Chapter 5122. of the Revised Code if the 59658  
client is committed to the agency or board. 59659

(2) Establish standards for qualifications of mental health 59660  
professionals as defined in section 340.02 of the Revised Code and 59661  
personnel who provide the community mental health services; 59662

(3) Establish the process for certification of community 59663  
mental health services; 59664

(4) Set the amount of certification review fees based on a 59665  
portion of the cost of performing the review; 59666

(5) Specify the type of notice and hearing to be provided 59667  
prior to a decision on whether to reallocate funds. 59668

(D) The rules adopted under division (C)(1) of this section 59669  
to establish certification standards for assertive community 59670  
treatment and intensive home-based mental health services shall be 59671  
adopted not later than July 1, 2004. 59672

**Sec. 5120.52.** The department of rehabilitation and correction 59673  
may enter into a contract ~~with a political subdivision in under~~ 59674  
which a state correctional institution is ~~located under which the~~ 59675  
~~institution will provide sewage treatment services for the~~ 59676  
~~political subdivision if the institution that has a water or~~ 59677  
sewage treatment facility with sufficient excess capacity to 59678  
provide the water or sewage treatment services will provide the 59679  
services for the other contracting party. The 59680

~~Any such~~ contract shall include all of the following that 59681  
apply: 59682

(A) Limitations on the quantity of sewage that the facility 59683  
will accept ~~that~~ which are compatible with the needs of the state 59684  
correctional institution; 59685

(B) Limitations on the quantity of potable water that the 59686

facility will provide which are compatible with the needs of the 59687  
state correctional institution; 59688

(C) The bases for calculating reasonable rates to be charged 59689  
the ~~political subdivision~~ contracting party for potable water or 59690  
sewage treatment services and for adjusting the rates; 59691

~~(C)~~(D) All other provisions the department considers 59692  
necessary or proper to protect the interests of the state in the 59693  
facility and the purpose for which it was constructed. 59694

All amounts due the department under the contract shall be 59695  
paid to the department by the ~~political subdivision~~ contracting 59696  
party at the times specified in the contract. The department shall 59697  
deposit all ~~such~~ of those amounts in the state treasury to the 59698  
credit of the correctional institution water and sewage treatment 59699  
facility services fund, which is hereby created. The fund shall be 59700  
used by the department to pay costs associated with operating and 59701  
maintaining the water and sewage treatment ~~facility~~ facilities. 59702

**Sec. 5123.01.** As used in this chapter: 59703

(A) "Chief medical officer" means the licensed physician 59704  
appointed by the managing officer of an institution for the 59705  
mentally retarded with the approval of the director of mental 59706  
retardation and developmental disabilities to provide medical 59707  
treatment for residents of the institution. 59708

(B) "Chief program director" means a person with special 59709  
training and experience in the diagnosis and management of the 59710  
mentally retarded, certified according to division (C) of this 59711  
section in at least one of the designated fields, and appointed by 59712  
the managing officer of an institution for the mentally retarded 59713  
with the approval of the director to provide habilitation and care 59714  
for residents of the institution. 59715

(C) "Comprehensive evaluation" means a study, including a 59716

sequence of observations and examinations, of a person leading to 59717  
conclusions and recommendations formulated jointly, with 59718  
dissenting opinions if any, by a group of persons with special 59719  
training and experience in the diagnosis and management of persons 59720  
with mental retardation or a developmental disability, which group 59721  
shall include individuals who are professionally qualified in the 59722  
fields of medicine, psychology, and social work, together with 59723  
such other specialists as the individual case may require. 59724

(D) "Education" means the process of formal training and 59725  
instruction to facilitate the intellectual and emotional 59726  
development of residents. 59727

(E) "Habilitation" means the process by which the staff of 59728  
the institution assists the resident in acquiring and maintaining 59729  
those life skills that enable the resident to cope more 59730  
effectively with the demands of the resident's own person and of 59731  
the resident's environment and in raising the level of the 59732  
resident's physical, mental, social, and vocational efficiency. 59733  
Habilitation includes but is not limited to programs of formal, 59734  
structured education and training. 59735

(F) "Habilitation center services" means services provided by 59736  
a habilitation center certified by the department of mental 59737  
retardation and developmental disabilities under section 5123.041 59738  
of the Revised Code and covered by the medicaid program pursuant 59739  
to rules adopted under section 5111.041 of the Revised Code. 59740

(G) "Health officer" means any public health physician, 59741  
public health nurse, or other person authorized or designated by a 59742  
city or general health district. 59743

(H) "Home and community-based services" means medicaid-funded 59744  
home and community-based services provided under a the medicaid 59745  
~~component~~ components the department of mental retardation and 59746  
developmental disabilities administers pursuant to section 59747

5111.871 of the Revised Code. 59748

(I) "Indigent person" means a person who is unable, without 59749  
substantial financial hardship, to provide for the payment of an 59750  
attorney and for other necessary expenses of legal representation, 59751  
including expert testimony. 59752

(J) "Institution" means a public or private facility, or a 59753  
part of a public or private facility, that is licensed by the 59754  
appropriate state department and is equipped to provide 59755  
residential habilitation, care, and treatment for the mentally 59756  
retarded. 59757

(K) "Licensed physician" means a person who holds a valid 59758  
certificate issued under Chapter 4731. of the Revised Code 59759  
authorizing the person to practice medicine and surgery or 59760  
osteopathic medicine and surgery, or a medical officer of the 59761  
government of the United States while in the performance of the 59762  
officer's official duties. 59763

(L) "Managing officer" means a person who is appointed by the 59764  
director of mental retardation and developmental disabilities to 59765  
be in executive control of an institution for the mentally 59766  
retarded under the jurisdiction of the department. 59767

(M) "Medicaid" has the same meaning as in section 5111.01 of 59768  
the Revised Code. 59769

(N) "Medicaid case management services" means case management 59770  
services provided to an individual with mental retardation or 59771  
other developmental disability that the state medicaid plan 59772  
requires. 59773

(O) "Mentally retarded person" means a person having 59774  
significantly subaverage general intellectual functioning existing 59775  
concurrently with deficiencies in adaptive behavior, manifested 59776  
during the developmental period. 59777

(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. 59808
- (3) It is likely to continue indefinitely. 59809
- (4) It results in one of the following: 59810
- (a) In the case of a person under three years of age, at 59811  
least one developmental delay or an established risk; 59812
- (b) In the case of a person at least three years of age but 59813  
under six years of age, at least two developmental delays or an 59814  
established risk; 59815
- (c) In the case of a person six years of age or older, a 59816  
substantial functional limitation in at least three of the 59817  
following areas of major life activity, as appropriate for the 59818  
person's age: self-care, receptive and expressive language, 59819  
learning, mobility, self-direction, capacity for independent 59820  
living, and, if the person is at least sixteen years of age, 59821  
capacity for economic self-sufficiency. 59822
- (5) It causes the person to need a combination and sequence 59823  
of special, interdisciplinary, or other type of care, treatment, 59824  
or provision of services for an extended period of time that is 59825  
individually planned and coordinated for the person. 59826
- (S) "Developmentally disabled person" means a person with a 59827  
developmental disability. 59828
- (T) "State institution" means an institution that is 59829  
tax-supported and under the jurisdiction of the department. 59830
- (U) "Residence" and "legal residence" have the same meaning 59831  
as "legal settlement," which is acquired by residing in Ohio for a 59832  
period of one year without receiving general assistance prior to 59833  
July 17, 1995, under former Chapter 5113. of the Revised Code, 59834  
~~disability~~ financial assistance under Chapter 5115. of the Revised 59835  
Code, or assistance from a private agency that maintains records 59836  
of assistance given. A person having a legal settlement in the 59837

state shall be considered as having legal settlement in the 59838  
assistance area in which the person resides. No adult person 59839  
coming into this state and having a spouse or minor children 59840  
residing in another state shall obtain a legal settlement in this 59841  
state as long as the spouse or minor children are receiving public 59842  
assistance, care, or support at the expense of the other state or 59843  
its subdivisions. For the purpose of determining the legal 59844  
settlement of a person who is living in a public or private 59845  
institution or in a home subject to licensing by the department of 59846  
job and family services, the department of mental health, or the 59847  
department of mental retardation and developmental disabilities, 59848  
the residence of the person shall be considered as though the 59849  
person were residing in the county in which the person was living 59850  
prior to the person's entrance into the institution or home. 59851  
Settlement once acquired shall continue until a person has been 59852  
continuously absent from Ohio for a period of one year or has 59853  
acquired a legal residence in another state. A woman who marries a 59854  
man with legal settlement in any county immediately acquires the 59855  
settlement of her husband. The legal settlement of a minor is that 59856  
of the parents, surviving parent, sole parent, parent who is 59857  
designated the residential parent and legal custodian by a court, 59858  
other adult having permanent custody awarded by a court, or 59859  
guardian of the person of the minor, provided that: 59860

(1) A minor female who marries shall be considered to have 59861  
the legal settlement of her husband and, in the case of death of 59862  
her husband or divorce, she shall not thereby lose her legal 59863  
settlement obtained by the marriage. 59864

(2) A minor male who marries, establishes a home, and who has 59865  
resided in this state for one year without receiving general 59866  
assistance prior to July 17, 1995, under former Chapter 5113. of 59867  
the Revised Code, ~~disability~~ financial assistance under Chapter 59868  
5115. of the Revised Code, or assistance from a private agency 59869

that maintains records of assistance given shall be considered to 59870  
have obtained a legal settlement in this state. 59871

(3) The legal settlement of a child under eighteen years of 59872  
age who is in the care or custody of a public or private child 59873  
caring agency shall not change if the legal settlement of the 59874  
parent changes until after the child has been in the home of the 59875  
parent for a period of one year. 59876

No person, adult or minor, may establish a legal settlement 59877  
in this state for the purpose of gaining admission to any state 59878  
institution. 59879

(V)(1) "Resident" means, subject to division (R)(2) of this 59880  
section, a person who is admitted either voluntarily or 59881  
involuntarily to an institution or other facility pursuant to 59882  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 59883  
Code subsequent to a finding of not guilty by reason of insanity 59884  
or incompetence to stand trial or under this chapter who is under 59885  
observation or receiving habilitation and care in an institution. 59886

(2) "Resident" does not include a person admitted to an 59887  
institution or other facility under section 2945.39, 2945.40, 59888  
2945.401, or 2945.402 of the Revised Code to the extent that the 59889  
reference in this chapter to resident, or the context in which the 59890  
reference occurs, is in conflict with any provision of sections 59891  
2945.37 to 2945.402 of the Revised Code. 59892

(W) "Respondent" means the person whose detention, 59893  
commitment, or continued commitment is being sought in any 59894  
proceeding under this chapter. 59895

(X) "Working day" and "court day" mean Monday, Tuesday, 59896  
Wednesday, Thursday, and Friday, except when such day is a legal 59897  
holiday. 59898

(Y) "Prosecutor" means the prosecuting attorney, village 59899  
solicitor, city director of law, or similar chief legal officer 59900

who prosecuted a criminal case in which a person was found not 59901  
guilty by reason of insanity, who would have had the authority to 59902  
prosecute a criminal case against a person if the person had not 59903  
been found incompetent to stand trial, or who prosecuted a case in 59904  
which a person was found guilty. 59905

(Z) "Court" means the probate division of the court of common 59906  
pleas. 59907

**Sec. 5123.051.** (A) If the department of mental retardation 59908  
and developmental disabilities determines pursuant to an audit 59909  
conducted under section 5123.05 of the Revised Code or a 59910  
reconciliation conducted under section 5123.18 or ~~5111.252~~ 59911  
5123.199 of the Revised Code that money is owed the state by a 59912  
provider of a service or program, the department may enter into a 59913  
payment agreement with the provider. The agreement shall include 59914  
the following: 59915

(1) A schedule of installment payments whereby the money owed 59916  
the state is to be paid in full within a period not to exceed one 59917  
year; 59918

(2) A provision that the provider may pay the entire balance 59919  
owed at any time during the term of the agreement; 59920

(3) A provision that if any installment is not paid in full 59921  
within forty-five days after it is due, the entire balance owed is 59922  
immediately due and payable; 59923

(4) Any other terms and conditions that are agreed to by the 59924  
department and the provider. 59925

(B) The department may include a provision in a payment 59926  
agreement that requires the provider to pay interest on the money 59927  
owed the state. The department, in its discretion, shall determine 59928  
whether to require the payment of interest and, if it so requires, 59929  
the rate of interest. Neither the obligation to pay interest nor 59930

the rate of interest is subject to negotiation between the 59931  
department and the provider. 59932

(C) If the provider fails to pay any installment in full 59933  
within forty-five days after its due date, the department shall 59934  
certify the entire balance owed to the attorney general for 59935  
collection under section 131.02 of the Revised Code. The 59936  
department may withhold funds from payments made to a provider 59937  
under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to 59938  
satisfy a judgment secured by the attorney general. 59939

(D) The purchase of service fund is hereby created. Money 59940  
credited to the fund shall be used solely for purposes of section 59941  
5123.05 of the Revised Code. 59942

**Sec. 5123.19.** (A) As used in this section and in sections 59943  
5123.191, 5123.194, 5123.196, 5123.198, 5123.1910, and 5123.20 of 59944  
the Revised Code: 59945

(1)(a) "Residential facility" means a home or facility in 59946  
which a mentally retarded or developmentally disabled person 59947  
resides, except the home of a relative or legal guardian in which 59948  
a mentally retarded or developmentally disabled person resides, a 59949  
respite care home certified under section 5126.05 of the Revised 59950  
Code, a county home or district home operated pursuant to Chapter 59951  
5155. of the Revised Code, or a dwelling in which the only 59952  
mentally retarded or developmentally disabled residents are in an 59953  
independent living arrangement or are being provided supported 59954  
living. 59955

(b) "Intermediate care facility for the mentally retarded" 59956  
means a residential facility that is considered an intermediate 59957  
care facility for the mentally retarded for the purposes of 59958  
Chapter 5111. of the Revised Code. 59959

(2) "Political subdivision" means a municipal corporation, 59960

county, or township. 59961

(3) "Independent living arrangement" means an arrangement in 59962  
which a mentally retarded or developmentally disabled person 59963  
resides in an individualized setting chosen by the person or the 59964  
person's guardian, which is not dedicated principally to the 59965  
provision of residential services for mentally retarded or 59966  
developmentally disabled persons, and for which no financial 59967  
support is received for rendering such service from any 59968  
governmental agency by a provider of residential services. 59969

(4) "Supported living" has the same meaning as in section 59970  
5126.01 of the Revised Code. 59971

(5) "Licensee" means the person or government agency that has 59972  
applied for a license to operate a residential facility and to 59973  
which the license was issued under this section. 59974

(B) Every person or government agency desiring to operate a 59975  
residential facility shall apply for licensure of the facility to 59976  
the director of mental retardation and developmental disabilities 59977  
unless the residential facility is subject to section 3721.02, 59978  
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 59979  
Chapter 3721. of the Revised Code, a nursing home that is 59980  
certified as an intermediate care facility for the mentally 59981  
retarded under Title XIX of the "Social Security Act," 79 Stat. 59982  
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 59983  
licensure of the portion of the home that is certified as an 59984  
intermediate care facility for the mentally retarded. 59985

(C) ~~The~~ Subject to section 5123.196 of the Revised Code, the 59986  
director of mental retardation and developmental disabilities 59987  
shall license the operation of residential facilities. An initial 59988  
license shall be issued for a period that does not exceed one 59989  
year, unless the director denies the license under division (D) of 59990  
this section. A license shall be renewed for a period that does 59991

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 60024  
violation that may result in sanctions under division (D)(1) of 60025  
this section, the director may impose the suspension before 60026  
providing an opportunity for an adjudication under Chapter 119. of 60027  
the Revised Code. The director shall lift an order for the 60028  
suspension of admissions when the director determines that the 60029  
violation that formed the basis for the order has been corrected. 60030

(4) The director may order the placement of a monitor at a 60031  
residential facility for any violation specified in rules adopted 60032  
under division (G)(2) of this section. The director shall lift the 60033  
order when the director determines that the violation that formed 60034  
the basis for the order has been corrected. 60035

(5) If the director determines that two or more residential 60036  
facilities owned or operated by the same person or government 60037  
entity are not being operated in compliance with a provision of 60038  
this chapter that applies to residential facilities or the rules 60039  
adopted under such a provision, and the director's findings are 60040  
based on the same or a substantially similar action, practice, 60041  
circumstance, or incident that creates a substantial risk to the 60042  
health and safety of the residents, the director shall conduct a 60043  
survey as soon as practicable at each residential facility owned 60044  
or operated by that person or government entity. The director may 60045  
take any action authorized by this section with respect to any 60046  
facility found to be operating in violation of a provision of this 60047  
chapter that applies to residential facilities or the rules 60048  
adopted under such a provision. 60049

(6) When the director initiates license revocation 60050  
proceedings, no opportunity for submitting a plan of correction 60051  
shall be given. The director shall notify the licensee by letter 60052  
of the initiation of such proceedings. The letter shall list the 60053  
deficiencies of the residential facility and inform the licensee 60054  
that no plan of correction will be accepted. The director shall 60055

also notify each affected resident, the resident's guardian if the 60056  
resident is an adult for whom a guardian has been appointed, the 60057  
resident's parent or guardian if the resident is a minor, and the 60058  
county board of mental retardation and developmental disabilities. 60059

(7) Pursuant to rules which shall be adopted in accordance 60060  
with Chapter 119. of the Revised Code, the director may order the 60061  
immediate removal of residents from a residential facility 60062  
whenever conditions at the facility present an immediate danger of 60063  
physical or psychological harm to the residents. 60064

(8) In determining whether a residential facility is being 60065  
operated in compliance with a provision of this chapter that 60066  
applies to residential facilities or the rules adopted under such 60067  
a provision, or whether conditions at a residential facility 60068  
present an immediate danger of physical or psychological harm to 60069  
the residents, the director may rely on information obtained by a 60070  
county board of mental retardation and developmental disabilities 60071  
or other governmental agencies. 60072

(9) In proceedings initiated to deny, refuse to renew, or 60073  
revoke licenses, the director may deny, refuse to renew, or revoke 60074  
a license regardless of whether some or all of the deficiencies 60075  
that prompted the proceedings have been corrected at the time of 60076  
the hearing. 60077

(E) The director shall establish a program under which public 60078  
notification may be made when the director has initiated license 60079  
revocation proceedings or has issued an order for the suspension 60080  
of admissions, placement of a monitor, or removal of residents. 60081  
The director shall adopt rules in accordance with Chapter 119. of 60082  
the Revised Code to implement this division. The rules shall 60083  
establish the procedures by which the public notification will be 60084  
made and specify the circumstances for which the notification must 60085  
be made. The rules shall require that public notification be made 60086  
if the director has taken action against the facility in the 60087

eighteen-month period immediately preceding the director's latest 60088  
action against the facility and the latest action is being taken 60089  
for the same or a substantially similar violation of a provision 60090  
of this chapter that applies to residential facilities or the 60091  
rules adopted under such a provision. The rules shall specify a 60092  
method for removing or amending the public notification if the 60093  
director's action is found to have been unjustified or the 60094  
violation at the residential facility has been corrected. 60095

(F)(1) Except as provided in division (F)(2) of this section, 60096  
appeals from proceedings initiated to impose a sanction under 60097  
division (D) of this section shall be conducted in accordance with 60098  
Chapter 119. of the Revised Code. 60099

(2) Appeals from proceedings initiated to order the 60100  
suspension of admissions to a facility shall be conducted in 60101  
accordance with Chapter 119. of the Revised Code, unless the order 60102  
was issued before providing an opportunity for an adjudication, in 60103  
which case all of the following apply: 60104

(a) The licensee may request a hearing not later than ten 60105  
days after receiving the notice specified in section 119.07 of the 60106  
Revised Code. 60107

(b) If a timely request for a hearing is made, the hearing 60108  
shall commence not later than thirty days after the department 60109  
receives the request. 60110

(c) After commencing, the hearing shall continue 60111  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 60112  
unless other interruptions are agreed to by the licensee and the 60113  
director. 60114

(d) If the hearing is conducted by a hearing examiner, the 60115  
hearing examiner shall file a report and recommendations not later 60116  
than ten days after the close of the hearing. 60117

(e) Not later than five days after the hearing examiner files 60118

the report and recommendations, the licensee may file objections 60119  
to the report and recommendations. 60120

(f) Not later than fifteen days after the hearing examiner 60121  
files the report and recommendations, the director shall issue an 60122  
order approving, modifying, or disapproving the report and 60123  
recommendations. 60124

(g) Notwithstanding the pendency of the hearing, the director 60125  
shall lift the order for the suspension of admissions when the 60126  
director determines that the violation that formed the basis for 60127  
the order has been corrected. 60128

(G) In accordance with Chapter 119. of the Revised Code, the 60129  
director shall adopt and may amend and rescind rules for licensing 60130  
and regulating the operation of residential facilities, including 60131  
intermediate care facilities for the mentally retarded. The rules 60132  
for intermediate care facilities for the mentally retarded may 60133  
differ from those for other residential facilities. The rules 60134  
shall establish and specify the following: 60135

(1) Procedures and criteria for issuing and renewing 60136  
licenses, including procedures and criteria for determining the 60137  
length of the licensing period that the director must specify for 60138  
each license when it is issued or renewed; 60139

(2) Procedures and criteria for denying, refusing to renew, 60140  
terminating, and revoking licenses and for ordering the suspension 60141  
of admissions to a facility, placement of a monitor at a facility, 60142  
and the immediate removal of residents from a facility; 60143

(3) Fees for issuing and renewing licenses; 60144

(4) Procedures for surveying residential facilities; 60145

(5) Requirements for the training of residential facility 60146  
personnel; 60147

(6) Classifications for the various types of residential 60148

facilities;	60149
(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;	60150 60151 60152 60153
(8) The maximum number of persons who may be served in a particular type of residential facility;	60154 60155
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	60156 60157
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	60158 60159
(11) Procedures for waiving any provision of any rule adopted under this section.	60160 60161
(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.	60162 60163 60164 60165 60166 60167 60168 60169 60170
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.	60171 60172 60173 60174 60175 60176 60177 60178 60179

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 60211  
a significant change of ownership is proposed, the director shall 60212  
consider the proposed change to be an application for development 60213  
by a new operator pursuant to section 5123.042 of the Revised Code 60214  
and shall advise the applicant within sixty days of such 60215  
notification that the current license shall continue in effect or 60216  
a new license will be required pursuant to this section. If the 60217  
director requires a new license, the director shall permit the 60218  
facility to continue to operate under the current license until 60219  
the new license is issued, unless the current license is revoked, 60220  
refused to be renewed, or terminated in accordance with Chapter 60221  
119. of the Revised Code. 60222

(K) A county board of mental retardation and developmental 60223  
disabilities, the legal rights service, and any interested person 60224  
may file complaints alleging violations of statute or department 60225  
rule relating to residential facilities with the department. All 60226  
complaints shall be in writing and shall state the facts 60227  
constituting the basis of the allegation. The department shall not 60228  
reveal the source of any complaint unless the complainant agrees 60229  
in writing to waive the right to confidentiality or until so 60230  
ordered by a court of competent jurisdiction. 60231

The department shall adopt rules in accordance with Chapter 60232  
119. of the Revised Code establishing procedures for the receipt, 60233  
referral, investigation, and disposition of complaints filed with 60234  
the department under this division. 60235

(L) The department shall establish procedures for the 60236  
notification of interested parties of the transfer or interim care 60237  
of residents from residential facilities that are closing or are 60238  
losing their license. 60239

(M) Before issuing a license under this section to a 60240  
residential facility that will accommodate at any time more than 60241  
one mentally retarded or developmentally disabled individual, the 60242

director shall, by first class mail, notify the following: 60243

(1) If the facility will be located in a municipal 60244  
corporation, the clerk of the legislative authority of the 60245  
municipal corporation; 60246

(2) If the facility will be located in unincorporated 60247  
territory, the clerk of the appropriate board of county 60248  
commissioners and the clerk of the appropriate board of township 60249  
trustees. 60250

The director shall not issue the license for ten days after 60251  
mailing the notice, excluding Saturdays, Sundays, and legal 60252  
holidays, in order to give the notified local officials time in 60253  
which to comment on the proposed issuance. 60254

Any legislative authority of a municipal corporation, board 60255  
of county commissioners, or board of township trustees that 60256  
receives notice under this division of the proposed issuance of a 60257  
license for a residential facility may comment on it in writing to 60258  
the director within ten days after the director mailed the notice, 60259  
excluding Saturdays, Sundays, and legal holidays. If the director 60260  
receives written comments from any notified officials within the 60261  
specified time, the director shall make written findings 60262  
concerning the comments and the director's decision on the 60263  
issuance of the license. If the director does not receive written 60264  
comments from any notified local officials within the specified 60265  
time, the director shall continue the process for issuance of the 60266  
license. 60267

(N) Any person may operate a licensed residential facility 60268  
that provides room and board, personal care, habilitation 60269  
services, and supervision in a family setting for at least six but 60270  
not more than eight persons with mental retardation or a 60271  
developmental disability as a permitted use in any residential 60272  
district or zone, including any single-family residential district 60273

or zone, of any political subdivision. These residential 60274  
facilities may be required to comply with area, height, yard, and 60275  
architectural compatibility requirements that are uniformly 60276  
imposed upon all single-family residences within the district or 60277  
zone. 60278

(O) Any person may operate a licensed residential facility 60279  
that provides room and board, personal care, habilitation 60280  
services, and supervision in a family setting for at least nine 60281  
but not more than sixteen persons with mental retardation or a 60282  
developmental disability as a permitted use in any multiple-family 60283  
residential district or zone of any political subdivision, except 60284  
that a political subdivision that has enacted a zoning ordinance 60285  
or resolution establishing planned unit development districts may 60286  
exclude these residential facilities from such districts, and a 60287  
political subdivision that has enacted a zoning ordinance or 60288  
resolution may regulate these residential facilities in 60289  
multiple-family residential districts or zones as a conditionally 60290  
permitted use or special exception, in either case, under 60291  
reasonable and specific standards and conditions set out in the 60292  
zoning ordinance or resolution to: 60293

(1) Require the architectural design and site layout of the 60294  
residential facility and the location, nature, and height of any 60295  
walls, screens, and fences to be compatible with adjoining land 60296  
uses and the residential character of the neighborhood; 60297

(2) Require compliance with yard, parking, and sign 60298  
regulation; 60299

(3) Limit excessive concentration of these residential 60300  
facilities. 60301

(P) This section does not prohibit a political subdivision 60302  
from applying to residential facilities nondiscriminatory 60303  
regulations requiring compliance with health, fire, and safety 60304

regulations and building standards and regulations. 60305

(Q) Divisions (N) and (O) of this section are not applicable 60306  
to municipal corporations that had in effect on June 15, 1977, an 60307  
ordinance specifically permitting in residential zones licensed 60308  
residential facilities by means of permitted uses, conditional 60309  
uses, or special exception, so long as such ordinance remains in 60310  
effect without any substantive modification. 60311

(R)(1) The director may issue an interim license to operate a 60312  
residential facility to an applicant for a license under this 60313  
section if either of the following is the case: 60314

(a) The director determines that an emergency exists 60315  
requiring immediate placement of persons in a residential 60316  
facility, that insufficient licensed beds are available, and that 60317  
the residential facility is likely to receive a permanent license 60318  
under this section within thirty days after issuance of the 60319  
interim license. 60320

(b) The director determines that the issuance of an interim 60321  
license is necessary to meet a temporary need for a residential 60322  
facility. 60323

(2) To be eligible to receive an interim license, an 60324  
applicant must meet the same criteria that must be met to receive 60325  
a permanent license under this section, except for any differing 60326  
procedures and time frames that may apply to issuance of a 60327  
permanent license. 60328

(3) An interim license shall be valid for thirty days and may 60329  
be renewed by the director for a period not to exceed one hundred 60330  
fifty days. 60331

(4) The director shall adopt rules in accordance with Chapter 60332  
119. of the Revised Code as the director considers necessary to 60333  
administer the issuance of interim licenses. 60334

(S) Notwithstanding rules adopted pursuant to this section 60335  
establishing the maximum number of persons who may be served in a 60336  
particular type of residential facility, a residential facility 60337  
shall be permitted to serve the same number of persons being 60338  
served by the facility on the effective date of such rules or the 60339  
number of persons for which the facility is authorized pursuant to 60340  
a current application for a certificate of need with a letter of 60341  
support from the department of mental retardation and 60342  
developmental disabilities and which is in the review process 60343  
prior to April 4, 1986. 60344

(T) The director or the director's designee may enter at any 60345  
time, for purposes of investigation, any home, facility, or other 60346  
structure that has been reported to the director or that the 60347  
director has reasonable cause to believe is being operated as a 60348  
residential facility without a license issued under this section. 60349

The director may petition the court of common pleas of the 60350  
county in which an unlicensed residential facility is located for 60351  
an order enjoining the person or governmental agency operating the 60352  
facility from continuing to operate without a license. The court 60353  
may grant the injunction on a showing that the person or 60354  
governmental agency named in the petition is operating a 60355  
residential facility without a license. The court may grant the 60356  
injunction, regardless of whether the residential facility meets 60357  
the requirements for receiving a license under this section. 60358

(U) Except as provided in section 5123.198 of the Revised 60359  
Code, whenever a resident of a residential facility is committed 60360  
to a state-operated intermediate care facility for the mentally 60361  
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60362  
Code, the department shall reduce by one the maximum number of 60363  
residents for which the facility is licensed. 60364

**Sec. 5123.196.** (A) Except as provided in divisions (E) and 60365

(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 60397  
rules adopted under division (G)(11) of that section, a waiver 60398  
allowing a residential facility to admit more residents than the 60399  
facility is licensed to admit regardless of whether the interim 60400  
license or waiver will result in there being more beds in all 60401  
residential facilities licensed under that section than is 60402  
permitted under division (B) of this section. 60403

Sec. 5123.198. (A) Except as provided in division (B) of this 60404  
section, whenever a resident of a residential facility is 60405  
committed to a state-operated intermediate care facility for the 60406  
mentally retarded pursuant to sections 5123.71 to 5123.76 of the 60407  
Revised Code, the department of mental retardation and 60408  
developmental disabilities, pursuant to an adjudication order 60409  
issued in accordance with Chapter 119. of the Revised code, shall 60410  
reduce by one the number of residents for which the facility in 60411  
which the resident resided is licensed. 60412

(B) The department shall not reduce under division (A) of 60413  
this section the number of residents for which a residential 60414  
facility is licensed if any of the following are the case: 60415

(1) The residential facility admits an individual who resides 60416  
in a state-operated intermediate care facility for the mentally 60417  
retarded on the date of the commitment of the resident of the 60418  
residential facility to the state-operated intermediate care 60419  
facility for the mentally retarded; 60420

(2) There are no individuals residing in a state-operated 60421  
intermediate care facility for the mentally retarded on the date 60422  
of the commitment who have needs that the residential facility can 60423  
meet; 60424

(3) The residential facility admits an individual who resides 60425  
in another residential facility on the date of the commitment, has 60426  
needs the residential facility can meet, and is designated for 60427

transfer to the residential facility by the department not later 60428  
than ninety days after the date of the commitment; 60429

(4) There are no individuals residing in another residential 60430  
facility on the date of the commitment who have needs that the 60431  
residential facility can meet; 60432

(5) The department fails within the time specified in 60433  
division (B)(3) of this section to designate for transfer to the 60434  
residential facility an individual who has needs that the 60435  
residential facility can meet and resides in another residential 60436  
facility on the date of the commitment; 60437

(6) Every individual the department designates within the 60438  
time specified in division (B)(3) of this section for transfer to 60439  
the residential facility, or the parents or guardians of every 60440  
such individual, refuses placement in the facility. 60441

(C) A residential facility that admits, discharges, or 60442  
transfers a resident under this section shall comply with the 60443  
uniform procedures for admissions, transfers, and discharges 60444  
established by rules adopted under division (G)(9) of section 60445  
5123.19 of the Revised Code. 60446

(D) The department of mental retardation and developmental 60447  
disabilities may notify the department of job and family services 60448  
of any reduction under this section in the number of residents for 60449  
which a residential facility that is an intermediate care facility 60450  
for the mentally retarded is licensed. On receiving the notice, 60451  
the department of job and family services may transfer to the 60452  
department of mental retardation and developmental disabilities 60453  
the savings in the nonfederal share of medicaid expenditures for 60454  
each fiscal year after the year of the commitment to be used for 60455  
costs of the resident's care in the state-operated intermediate 60456  
care facility for the mentally retarded. In determining the amount 60457  
saved, the department of job and family services shall consider 60458

medicaid payments for the remaining residents of the facility in 60459  
which the resident resided. 60460

**Sec. ~~5111.252~~ 5123.199.** (A) As used in this section: 60461

(1) "Contractor" means a person or government agency that has 60462  
entered into a contract with the department of mental retardation 60463  
and developmental disabilities under this section. 60464

(2) "Government agency" and "residential services" have the 60465  
same meanings as in section 5123.18 of the Revised Code. 60466

(3) "Intermediate care facility for the mentally retarded" 60467  
has the same meaning as in section 5111.20 of the Revised Code. 60468

(4) "Respite care services" has the same meaning as in 60469  
section 5123.171 of the Revised Code. 60470

(B) The department of mental retardation and developmental 60471  
disabilities may enter into a contract with a person or government 60472  
agency to do any of the following: 60473

(1) Provide residential services in an intermediate care 60474  
facility for the mentally retarded to an individual who meets the 60475  
criteria for admission to such a facility but is not eligible for 60476  
assistance under ~~this chapter~~ Chapter 5111. of the Revised Code 60477  
due to unliquidated assets subject to final probate action; 60478

(2) Provide respite care services in an intermediate care 60479  
facility for the mentally retarded; 60480

(3) Provide residential services in a facility for which the 60481  
person or government agency has applied for, but has not received, 60482  
certification and payment as an intermediate care facility for the 60483  
mentally retarded if the person or government agency is making a 60484  
good faith effort to bring the facility into compliance with 60485  
requirements for certification and payment as an intermediate care 60486  
facility for the mentally retarded. In assigning payment amounts 60487  
to such contracts, the department shall take into account costs 60488

incurred in attempting to meet certification requirements. 60489

(4) Reimburse an intermediate care facility for the mentally 60490  
retarded for costs not otherwise reimbursed under ~~this chapter~~ 60491  
Chapter 5111. of the Revised Code for clothing for individuals who 60492  
are mentally retarded or developmentally disabled. Reimbursement 60493  
under such contracts shall not exceed a maximum amount per 60494  
individual per year specified in rules that the department shall 60495  
adopt in accordance with Chapter 119. of the Revised Code. 60496

(C) The amount paid to a contractor under divisions (B)(1) to 60497  
(3) of this section shall not exceed the reimbursement that would 60498  
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 60499  
the department of job and family services for the same goods and 60500  
services. 60501

(D) The department of mental retardation and developmental 60502  
disabilities shall adopt rules as necessary to implement this 60503  
section, including rules establishing standards and procedures for 60504  
the submission of cost reports by contractors and the department's 60505  
conduct of audits and reconciliations regarding the contracts. The 60506  
rules shall be adopted in accordance with Chapter 119. of the 60507  
Revised Code. 60508

**Sec. 5123.1910.** (A) The director of mental retardation and 60509  
developmental disabilities shall issue one or more residential 60510  
facility licenses under section 5123.19 of the Revised Code to an 60511  
applicant without requiring the applicant to have plans submitted, 60512  
reviewed, or approved under section 5123.042 of the Revised Code 60513  
for the residential facility if all of the following requirements 60514  
are met: 60515

(1) The applicant satisfies the requirements for the license 60516  
established by section 5123.19 of the Revised Code and rules 60517  
adopted under that section, other than any rule that requires an 60518  
applicant for a residential facility license to have plans 60519

submitted, reviewed, or approved under section 5123.042 of the 60520  
Revised Code for the residential facility. 60521

(2) The applicant operates at least one residential facility 60522  
licensed under section 5123.19 of the Revised Code on the 60523  
effective date of this section. 60524

(3) The applicant provides services to individuals with 60525  
mental retardation or a developmental disability who have a 60526  
chronic, medically complex, or technology-dependent condition that 60527  
requires special supervision or care, the majority of whom 60528  
received habilitation services from the applicant before attaining 60529  
eighteen years of age. 60530

(4) The applicant has created directly or through a corporate 60531  
affiliate a research center that has the mission of funding, 60532  
promoting, and carrying on scientific research in the public 60533  
interest related to individuals with mental retardation or a 60534  
developmental disability for the purpose of improving the lives of 60535  
such individuals. 60536

(5) If the applicant seeks two or more residential facility 60537  
licenses, the residential facilities for which a license is sought 60538  
after the effective date of this section are located on the same 60539  
or adjoining property sites. 60540

(6) The residential facilities for which the applicant seeks 60541  
licensure have not more than eight beds each and forty-eight beds 60542  
total. 60543

(7) The applicant, one or more of the applicant's corporate 60544  
affiliates, or both employ or contract for, on a full-time basis, 60545  
at least one licensed physician who is certified by the American 60546  
board of pediatrics or would be eligible for certification from 60547  
that board if the physician passed an examination necessary to 60548  
obtain certification from that board. 60549

(8) The applicant, one or more of the applicant's corporate 60550

affiliates, or both have educational facilities suitable for the 60551  
instruction of individuals under eighteen years of age with mental 60552  
retardation or a developmental disability who have a medically 60553  
complex or technology-dependent condition. 60554

(9) The applicant has a policy for giving individuals with 60555  
mental retardation or a developmental disability who meet all of 60556  
the following conditions priority over all others in admissions to 60557  
one of the residential facilities licensed under section 5123.19 60558  
of the Revised Code that the applicant operates on the effective 60559  
date of this section: 60560

(a) Are under eighteen years of age; 60561

(b) Have a chronic, medically complex, or 60562  
technology-dependent condition that requires special supervision 60563  
or care; 60564

(c) Are eligible for medicaid; 60565

(d) Reside in a nursing home, as defined in section 3721.01 60566  
of the Revised Code, or a hospital, as defined in section 3727.01, 60567  
prior to being admitted to the residential facility. 60568

(B) The director shall issue one or more residential facility 60569  
licenses under section 5123.19 of the Revised Code to an applicant 60570  
who meets all of the requirements of this section regardless of 60571  
whether the requirements for approval of a plan for a proposed 60572  
residential facility established by rules adopted under section 60573  
5123.042 of the Revised Code are met. 60574

**Sec. 5123.38.** (A) Except as provided in division (B) and (C) 60575  
of this section, if an individual receiving supported living or 60576  
home and community-based services, as defined in section 5126.01 60577  
of the Revised Code, funded by a county board of mental 60578  
retardation and developmental disabilities is committed to a 60579  
state-operated intermediate care facility for the mentally 60580

retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60581  
Code, the department of mental retardation and developmental 60582  
disabilities shall use the funds otherwise allocated to the county 60583  
board as the nonfederal share of medicaid expenditures for the 60584  
individual's care in the state-operated facility. 60585

(B) Division (A) of this section does not apply if the county 60586  
board, not later than ninety days after the date of the commitment 60587  
of a person receiving supported services, commences funding of 60588  
supported living for an individual who resides in a state-operated 60589  
intermediate care facility for the mentally retarded on the date 60590  
of the commitment or another eligible individual designated by the 60591  
department. 60592

(C) Division (A) of this section does not apply if the county 60593  
board, not later than ninety days after the date of the commitment 60594  
of a person receiving home and community-based services, commences 60595  
funding of home and community-based services for an individual who 60596  
resides in a state-operated intermediate care facility for the 60597  
mentally retarded on the date of the commitment or another 60598  
eligible individual designated by the department. 60599

**Sec. 5123.60.** (A) A legal rights service is hereby created 60600  
and established to protect and advocate the rights of mentally ill 60601  
persons, mentally retarded persons, developmentally disabled 60602  
persons, and other disabled persons who may be represented by the 60603  
service pursuant to division (L) of this section; to receive and 60604  
act upon complaints concerning institutional and hospital 60605  
practices and conditions of institutions for mentally retarded or 60606  
developmentally disabled persons and hospitals for the mentally 60607  
ill; and to assure that all persons detained, hospitalized, 60608  
discharged, or institutionalized, and all persons whose detention, 60609  
hospitalization, discharge, or institutionalization is sought or 60610  
has been sought under this chapter or Chapter 5122. of the Revised 60611

Code are fully informed of their rights and adequately represented 60612  
by counsel in proceedings under this chapter or Chapter 5122. of 60613  
the Revised Code and in any proceedings to secure the rights of 60614  
those persons. Notwithstanding the definitions of "mentally 60615  
retarded person" and "developmentally disabled person" in section 60616  
5123.01 of the Revised Code, the legal rights service shall 60617  
determine who is a mentally retarded or developmentally disabled 60618  
person for purposes of this section and sections 5123.601 to 60619  
5123.604 of the Revised Code. 60620

(B) In regard to those persons detained, hospitalized, or 60621  
institutionalized under Chapter 5122. of the Revised Code, the 60622  
legal rights service shall undertake formal representation only of 60623  
those persons who are involuntarily detained, hospitalized, or 60624  
institutionalized pursuant to sections 5122.10 to 5122.15 of the 60625  
Revised Code, and those voluntarily detained, hospitalized, or 60626  
institutionalized who are minors, who have been adjudicated 60627  
incompetent, who have been detained, hospitalized, or 60628  
institutionalized in a public hospital, or who have requested 60629  
representation by the legal rights service. If a person referred 60630  
to in division (A) of this section voluntarily requests in writing 60631  
that the legal rights service terminate participation in the 60632  
person's case, such involvement shall cease. 60633

(C) Any person voluntarily hospitalized or institutionalized 60634  
in a public hospital under division (A) of section 5122.02 of the 60635  
Revised Code, after being fully informed of the person's rights 60636  
under division (A) of this section, may, by written request, waive 60637  
assistance by the legal rights service if the waiver is knowingly 60638  
and intelligently made, without duress or coercion. 60639

The waiver may be rescinded at any time by the voluntary 60640  
patient or resident, or by the voluntary patient's or resident's 60641  
legal guardian. 60642

(D)(1) The legal rights service commission is hereby created 60643

for the purposes of appointing an administrator of the legal 60644  
rights service, advising the administrator, assisting the 60645  
administrator in developing a budget, advising the administrator 60646  
in establishing and annually reviewing a strategic plan, creating 60647  
a procedure for filing and determination of grievances against the 60648  
legal rights service, and establishing general policy guidelines, 60649  
including guidelines for the commencement of litigation, for the 60650  
legal rights service. The commission may adopt rules to carry 60651  
these purposes into effect and may receive and act upon appeals of 60652  
personnel decisions by the administrator. 60653

(2) The commission shall consist of seven members. One 60654  
member, who shall serve as chairperson, shall be appointed by the 60655  
chief justice of the supreme court, three members shall be 60656  
appointed by the speaker of the house of representatives, and 60657  
three members shall be appointed by the president of the senate. 60658  
At least two members shall have experience in the field of 60659  
developmental disabilities, and at least two members shall have 60660  
experience in the field of mental health. No member shall be a 60661  
provider or related to a provider of services to mentally 60662  
retarded, developmentally disabled, or mentally ill persons. 60663

(3) Terms of office of the members of the commission shall be 60664  
for three years, each term ending on the same day of the month of 60665  
the year as did the term which it succeeds. Each member shall 60666  
serve subsequent to the expiration of the member's term until a 60667  
successor is appointed and qualifies, or until sixty days has 60668  
elapsed, whichever occurs first. No member shall serve more than 60669  
two consecutive terms. 60670

All vacancies in the membership of the commission shall be 60671  
filled in the manner prescribed for regular appointments to the 60672  
commission and shall be limited to the unexpired terms. 60673

(4) The commission shall meet at least four times each year. 60674  
Members shall be reimbursed for their necessary and actual 60675

expenses incurred in the performance of their official duties. 60676

(5) The administrator of the legal rights service shall be 60677  
~~appointed for a five year term, subject to removal for mental or~~ 60678  
~~physical incapacity to perform the duties of the office,~~ 60679  
~~conviction of violation of any law relating to the administrator's~~ 60680  
~~powers and duties, or other good cause shown~~ serve at the pleasure 60681  
of the commission. 60682

The administrator shall be a person who has had special 60683  
training and experience in the type of work with which the legal 60684  
rights service is charged. If the administrator is not an 60685  
attorney, the administrator shall seek legal counsel when 60686  
appropriate. The salary of the administrator shall be established 60687  
in accordance with section 124.14 of the Revised Code. 60688

(E) The legal rights service shall be completely independent 60689  
of the department of mental health and the department of mental 60690  
retardation and developmental disabilities and, notwithstanding 60691  
section 109.02 of the Revised Code, shall also be independent of 60692  
the office of the attorney general. The administrator of the legal 60693  
rights service, staff, and attorneys designated by the 60694  
administrator to represent persons detained, hospitalized, or 60695  
institutionalized under this chapter or Chapter 5122. of the 60696  
Revised Code shall have ready access to the following: 60697

(1) During normal business hours and at other reasonable 60698  
times, all records relating to expenditures of state and federal 60699  
funds or to the commitment, care, treatment, and habilitation of 60700  
all persons represented by the legal rights service, including 60701  
those who may be represented pursuant to division (L) of this 60702  
section, or persons detained, hospitalized, institutionalized, or 60703  
receiving services under this chapter or Chapter 340., 5119., 60704  
5122., or 5126. of the Revised Code that are records maintained by 60705  
the following entities providing services for those persons: 60706  
departments; institutions; hospitals; community residential 60707

facilities; boards of alcohol, drug addiction, and mental health 60708  
services; county boards of mental retardation and developmental 60709  
disabilities; contract agencies of those boards; and any other 60710  
entity providing services to persons who may be represented by the 60711  
service pursuant to division (L) of this section; 60712

(2) Any records maintained in computerized data banks of the 60713  
departments or boards or, in the case of persons who may be 60714  
represented by the service pursuant to division (L) of this 60715  
section, any other entity that provides services to those persons; 60716

(3) During their normal working hours, personnel of the 60717  
departments, facilities, boards, agencies, institutions, 60718  
hospitals, and other service-providing entities; 60719

(4) At any time, all persons detained, hospitalized, or 60720  
institutionalized; persons receiving services under this chapter 60721  
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 60722  
persons who may be represented by the service pursuant to division 60723  
(L) of this section. 60724

(F) The administrator of the legal rights service shall do 60725  
the following: 60726

(1) Administer and organize the work of the legal rights 60727  
service and establish administrative or geographic divisions as 60728  
the administrator considers necessary, proper, and expedient; 60729

(2) Adopt and promulgate rules that are not in conflict with 60730  
rules adopted by the commission and prescribe duties for the 60731  
efficient conduct of the business and general administration of 60732  
the legal rights service; 60733

(3) Appoint and discharge employees, and hire experts, 60734  
consultants, advisors, or other professionally qualified persons 60735  
as the administrator considers necessary to carry out the duties 60736  
of the legal rights service; 60737

(4) Apply for and accept grants of funds, and accept 60738  
charitable gifts and bequests; 60739

(5) Prepare and submit a budget to the general assembly for 60740  
the operation of the legal rights service. At least thirty days 60741  
prior to submitting the budget to the general assembly, the 60742  
administrator shall provide a copy of the budget to the commission 60743  
for review and comment. When submitting the budget to the general 60744  
assembly, the administrator shall include a copy of any written 60745  
comments returned by the commission to the administrator. 60746

(6) Enter into contracts and make expenditures necessary for 60747  
the efficient operation of the legal rights service; 60748

(7) Annually prepare a report of activities and submit copies 60749  
of the report to the governor, the chief justice of the supreme 60750  
court, the president of the senate, the speaker of the house of 60751  
representatives, the director of mental health, and the director 60752  
of mental retardation and developmental disabilities, and make the 60753  
report available to the public; 60754

(8) Upon request of the commission or of the chairperson of 60755  
the commission, report to the commission on specific litigation 60756  
issues or activities. 60757

(G)(1) The legal rights service may act directly or contract 60758  
with other organizations or individuals for the provision of the 60759  
services envisioned under this section. 60760

(2) Whenever possible, the administrator shall attempt to 60761  
facilitate the resolution of complaints through administrative 60762  
channels. Subject to division (G)(3) of this section, if attempts 60763  
at administrative resolution prove unsatisfactory, the 60764  
administrator may pursue any legal, administrative, and other 60765  
appropriate remedies or approaches that may be necessary to 60766  
accomplish the purposes of this section. 60767

(3) The administrator may not pursue a class action lawsuit 60768  
under division (G)(2) of this section when attempts at 60769  
administrative resolution of a complaint prove unsatisfactory 60770  
under that division unless both of the following have first 60771  
occurred: 60772

(a) At least four members of the commission, by their 60773  
affirmative vote, have consented to the pursuit of the class 60774  
action lawsuit; 60775

(b) At least five members of the commission are present at 60776  
the meeting of the commission at which that consent is obtained. 60777

(4) ~~Relationships~~ Subject to division (G)(5) of this section, 60778  
relationships between personnel and the agents of the legal rights 60779  
service and its clients shall be fiduciary relationships, and all 60780  
communications shall be confidential, as if between attorney and 60781  
client. 60782

(5) Any person who has been represented by the legal rights 60783  
service or who has applied for and been denied representation and 60784  
who files a grievance with the service concerning the 60785  
representation or application may appeal the decision of the 60786  
service on the grievance to the commission. The person may appeal 60787  
notwithstanding any objections of the person's legal guardian. The 60788  
commission may examine any records relevant to the appeal and 60789  
shall maintain the confidentiality of any records that are 60790  
required to be kept confidential. 60791

(H) The legal rights service, on the order of the 60792  
administrator, with the approval by an affirmative vote of at 60793  
least four members of the commission, may compel by subpoena the 60794  
appearance and sworn testimony of any person the administrator 60795  
reasonably believes may be able to provide information or to 60796  
produce any documents, books, records, papers, or other 60797  
information necessary to carry out its duties. 60798

(I) The legal rights service may conduct public hearings. 60799

(J) The legal rights service may request from any 60800  
governmental agency any cooperation, assistance, services, or data 60801  
that will enable it to perform its duties. 60802

(K) In any malpractice action filed against the administrator 60803  
of the legal rights service, a member of the staff of the legal 60804  
rights service, or an attorney designated by the administrator to 60805  
perform legal services under division (E) of this section, the 60806  
state shall, when the administrator, member, or attorney has acted 60807  
in good faith and in the scope of employment, indemnify the 60808  
administrator, member, or attorney for any judgment awarded or 60809  
amount negotiated in settlement, and for any court costs or legal 60810  
fees incurred in defense of the claim. 60811

This division does not limit or waive, and shall not be 60812  
construed to limit or waive, any defense that is available to the 60813  
legal rights service, its administrator or employees, persons 60814  
under a personal services contract with it, or persons designated 60815  
under division (E) of this section, including, but not limited to, 60816  
any defense available under section 9.86 of the Revised Code. 60817

(L) In addition to providing services to mentally ill, 60818  
mentally retarded, or developmentally disabled persons, when a 60819  
grant authorizing the provision of services to other individuals 60820  
is accepted pursuant to division (F)(4) of this section, the legal 60821  
rights service and its ombudsperson section may provide advocacy 60822  
or ombudsperson services to those other individuals and exercise 60823  
any other authority granted by this section or sections 5123.601 60824  
to 5123.604 of the Revised Code on behalf of those individuals. 60825  
Determinations of whether an individual is eligible for services 60826  
under this division shall be made by the legal rights service. 60827

**Sec. 5123.801.** If neither a discharged resident, nor a 60828

resident granted trial visit, nor the persons requesting the 60829  
resident's trial visit or discharge are financially able to bear 60830  
the expense of the resident's trial visit or discharge, the 60831  
managing officer of an institution under the control of the 60832  
department of mental retardation and developmental disabilities 60833  
may then provide actual traveling and escort expenses to the 60834  
township of which the resident resided at the time of 60835  
institutionalization. The amount payable shall be charged to the 60836  
current expense fund of the institution. 60837

The expense of the return of a resident on trial visit from 60838  
an institution, if it cannot be paid by the responsible relatives, 60839  
shall be borne by the county of institutionalization. 60840

~~The managing officer of the institution shall take all proper 60841  
measures for the apprehension of an escaped resident. The expense 60842  
of the return of an escaped resident shall be borne by the 60843  
institution where the resident is institutionalized. 60844~~

The managing officer of the institution shall provide 60845  
sufficient and proper clothing for traveling if neither the 60846  
resident nor the persons requesting the resident's trial visit or 60847  
discharge are financially able to provide that clothing. 60848

Sec. 5123.851. When a resident institutionalized pursuant to 60849  
this chapter is discharged from the institution, the managing 60850  
officer of the institution may provide the resident with all 60851  
personal items that were purchased in implementing the resident's 60852  
habilitation plan established pursuant to section 5123.85 of the 60853  
Revised Code. The personal items may be provided to the resident, 60854  
regardless of the source of the funds that were used to purchase 60855  
the items. 60856

**Sec. 5126.01.** As used in this chapter: 60857

(A) As used in this division, "adult" means an individual who 60858

is eighteen years of age or over and not enrolled in a program or 60859  
service under Chapter 3323. of the Revised Code and an individual 60860  
sixteen or seventeen years of age who is eligible for adult 60861  
services under rules adopted by the director of mental retardation 60862  
and developmental disabilities pursuant to Chapter 119. of the 60863  
Revised Code. 60864

(1) "Adult services" means services provided to an adult 60865  
outside the home, except when they are provided within the home 60866  
according to an individual's assessed needs and identified in an 60867  
individual service plan, that support learning and assistance in 60868  
the area of self-care, sensory and motor development, 60869  
socialization, daily living skills, communication, community 60870  
living, social skills, or vocational skills. 60871

(2) "Adult services" includes all of the following: 60872

(a) Adult day habilitation services; 60873

(b) Adult day care; 60874

(c) Prevocational services; 60875

(d) Sheltered employment; 60876

(e) Educational experiences and training obtained through 60877  
entities and activities that are not expressly intended for 60878  
individuals with mental retardation and developmental 60879  
disabilities, including trade schools, vocational or technical 60880  
schools, adult education, job exploration and sampling, unpaid 60881  
work experience in the community, volunteer activities, and 60882  
spectator sports; 60883

(f) Community employment services and supported employment 60884  
services. 60885

(B)(1) "Adult day habilitation services" means adult services 60886  
that do the following: 60887

(a) Provide access to and participation in typical activities 60888

and functions of community life that are desired and chosen by the 60889  
general population, including such activities and functions as 60890  
opportunities to experience and participate in community 60891  
exploration, companionship with friends and peers, leisure 60892  
activities, hobbies, maintaining family contacts, community 60893  
events, and activities where individuals without disabilities are 60894  
involved; 60895

(b) Provide supports or a combination of training and 60896  
supports that afford an individual a wide variety of opportunities 60897  
to facilitate and build relationships and social supports in the 60898  
community. 60899

(2) "Adult day habilitation services" includes all of the 60900  
following: 60901

(a) Personal care services needed to ensure an individual's 60902  
ability to experience and participate in vocational services, 60903  
educational services, community activities, and any other adult 60904  
day habilitation services; 60905

(b) Skilled services provided while receiving adult day 60906  
habilitation services, including such skilled services as behavior 60907  
management intervention, occupational therapy, speech and language 60908  
therapy, physical therapy, and nursing services; 60909

(c) Training and education in self-determination designed to 60910  
help the individual do one or more of the following: develop 60911  
self-advocacy skills, exercise the individual's civil rights, 60912  
acquire skills that enable the individual to exercise control and 60913  
responsibility over the services received, and acquire skills that 60914  
enable the individual to become more independent, integrated, or 60915  
productive in the community; 60916

(d) Recreational and leisure activities identified in the 60917  
individual's service plan as therapeutic in nature or assistive in 60918  
developing or maintaining social supports; 60919

(e) Counseling and assistance provided to obtain housing, 60920  
including such counseling as identifying options for either rental 60921  
or purchase, identifying financial resources, assessing needs for 60922  
environmental modifications, locating housing, and planning for 60923  
ongoing management and maintenance of the housing selected; 60924

(f) Transportation necessary to access adult day habilitation 60925  
services; 60926

(g) Habilitation management, as described in section 5126.14 60927  
of the Revised Code. 60928

(3) "Adult day habilitation services" does not include 60929  
activities that are components of the provision of residential 60930  
services, family support services, or supported living services. 60931

(C) "Community employment services" or "supported employment 60932  
services" means job training and other services related to 60933  
employment outside a sheltered workshop. "Community employment 60934  
services" or "supported employment services" include all of the 60935  
following: 60936

(1) Job training resulting in the attainment of competitive 60937  
work, supported work in a typical work environment, or 60938  
self-employment; 60939

(2) Supervised work experience through an employer paid to 60940  
provide the supervised work experience; 60941

(3) Ongoing work in a competitive work environment at a wage 60942  
commensurate with workers without disabilities; 60943

(4) Ongoing supervision by an employer paid to provide the 60944  
supervision. 60945

(D) As used in this division, "substantial functional 60946  
limitation," "developmental delay," and "established risk" have 60947  
the meanings established pursuant to section 5123.011 of the 60948  
Revised Code. 60949

"Developmental disability" means a severe, chronic disability 60950  
that is characterized by all of the following: 60951

(1) It is attributable to a mental or physical impairment or 60952  
a combination of mental and physical impairments, other than a 60953  
mental or physical impairment solely caused by mental illness as 60954  
defined in division (A) of section 5122.01 of the Revised Code; 60955

(2) It is manifested before age twenty-two; 60956

(3) It is likely to continue indefinitely; 60957

(4) It results in one of the following: 60958

(a) In the case of a person under age three, at least one 60959  
developmental delay or an established risk; 60960

(b) In the case of a person at least age three but under age 60961  
six, at least two developmental delays or an established risk; 60962

(c) In the case of a person age six or older, a substantial 60963  
functional limitation in at least three of the following areas of 60964  
major life activity, as appropriate for the person's age: 60965  
self-care, receptive and expressive language, learning, mobility, 60966  
self-direction, capacity for independent living, and, if the 60967  
person is at least age sixteen, capacity for economic 60968  
self-sufficiency. 60969

(5) It causes the person to need a combination and sequence 60970  
of special, interdisciplinary, or other type of care, treatment, 60971  
or provision of services for an extended period of time that is 60972  
individually planned and coordinated for the person. 60973

(E) "Early childhood services" means a planned program of 60974  
habilitation designed to meet the needs of individuals with mental 60975  
retardation or other developmental disabilities who have not 60976  
attained compulsory school age. 60977

(F)(1) "Environmental modifications" means the physical 60978  
adaptations to an individual's home, specified in the individual's 60979

service plan, that are necessary to ensure the individual's 60980  
health, safety, and welfare or that enable the individual to 60981  
function with greater independence in the home, and without which 60982  
the individual would require institutionalization. 60983

(2) "Environmental modifications" includes such adaptations 60984  
as installation of ramps and grab-bars, widening of doorways, 60985  
modification of bathroom facilities, and installation of 60986  
specialized electric and plumbing systems necessary to accommodate 60987  
the individual's medical equipment and supplies. 60988

(3) "Environmental modifications" does not include physical 60989  
adaptations or improvements to the home that are of general 60990  
utility or not of direct medical or remedial benefit to the 60991  
individual, including such adaptations or improvements as 60992  
carpeting, roof repair, and central air conditioning. 60993

(G) "Family support services" means the services provided 60994  
under a family support services program operated under section 60995  
5126.11 of the Revised Code. 60996

(H) "Habilitation" means the process by which the staff of 60997  
the facility or agency assists an individual with mental 60998  
retardation or other developmental disability in acquiring and 60999  
maintaining those life skills that enable the individual to cope 61000  
more effectively with the demands of the individual's own person 61001  
and environment, and in raising the level of the individual's 61002  
personal, physical, mental, social, and vocational efficiency. 61003  
Habilitation includes, but is not limited to, programs of formal, 61004  
structured education and training. 61005

(I) "Habilitation center services" means services provided by 61006  
a habilitation center certified by the department of mental 61007  
retardation and developmental disabilities under section 5123.041 61008  
of the Revised Code and covered by the medicaid program pursuant 61009  
to rules adopted under section 5111.041 of the Revised Code. 61010

(J) "Home and community-based services" means medicaid-funded 61011  
home and community-based services provided under a the medicaid 61012  
~~component~~ components the department of mental retardation and 61013  
developmental disabilities administers pursuant to section 61014  
5111.871 of the Revised Code. 61015

(K) "Medicaid" has the same meaning as in section 5111.01 of 61016  
the Revised Code. 61017

(L) "Medicaid case management services" means case management 61018  
services provided to an individual with mental retardation or 61019  
other developmental disability that the state medicaid plan 61020  
requires. 61021

(M) "Mental retardation" means a mental impairment manifested 61022  
during the developmental period characterized by significantly 61023  
subaverage general intellectual functioning existing concurrently 61024  
with deficiencies in the effectiveness or degree with which an 61025  
individual meets the standards of personal independence and social 61026  
responsibility expected of the individual's age and cultural 61027  
group. 61028

(N) "Residential services" means services to individuals with 61029  
mental retardation or other developmental disabilities to provide 61030  
housing, food, clothing, habilitation, staff support, and related 61031  
support services necessary for the health, safety, and welfare of 61032  
the individuals and the advancement of their quality of life. 61033  
"Residential services" includes program management, as described 61034  
in section 5126.14 of the Revised Code. 61035

(O) "Resources" means available capital and other assets, 61036  
including moneys received from the federal, state, and local 61037  
governments, private grants, and donations; appropriately 61038  
qualified personnel; and appropriate capital facilities and 61039  
equipment. 61040

(P) "Service and support administration" means the duties 61041

performed by a service and support administrator pursuant to 61042  
section 5126.15 of the Revised Code. 61043

(Q)(1) "Specialized medical, adaptive, and assistive 61044  
equipment, supplies, and supports" means equipment, supplies, and 61045  
supports that enable an individual to increase the ability to 61046  
perform activities of daily living or to perceive, control, or 61047  
communicate within the environment. 61048

(2) "Specialized medical, adaptive, and assistive equipment, 61049  
supplies, and supports" includes the following: 61050

(a) Eating utensils, adaptive feeding dishes, plate guards, 61051  
mylatex straps, hand splints, reaches, feeder seats, adjustable 61052  
pointer sticks, interpreter services, telecommunication devices 61053  
for the deaf, computerized communications boards, other 61054  
communication devices, support animals, veterinary care for 61055  
support animals, adaptive beds, supine boards, prone boards, 61056  
wedges, sand bags, sidelayers, bolsters, adaptive electrical 61057  
switches, hand-held shower heads, air conditioners, humidifiers, 61058  
emergency response systems, folding shopping carts, vehicle lifts, 61059  
vehicle hand controls, other adaptations of vehicles for 61060  
accessibility, and repair of the equipment received. 61061

(b) Nondisposable items not covered by medicaid that are 61062  
intended to assist an individual in activities of daily living or 61063  
instrumental activities of daily living. 61064

(R) "Supportive home services" means a range of services to 61065  
families of individuals with mental retardation or other 61066  
developmental disabilities to develop and maintain increased 61067  
acceptance and understanding of such persons, increased ability of 61068  
family members to teach the person, better coordination between 61069  
school and home, skills in performing specific therapeutic and 61070  
management techniques, and ability to cope with specific 61071  
situations. 61072

(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; 61103

(e) Respite care services; 61104

(f) Program management, as described in section 5126.14 of 61105  
the Revised Code. 61106

**Sec. 5126.042.** (A) As used in this section+ 61107

~~(1) "Emergency", "emergency"~~ means any situation that creates 61108  
for an individual with mental retardation or developmental 61109  
disabilities a risk of substantial self-harm or substantial harm 61110  
to others if action is not taken within thirty days. An 61111  
"emergency" may include one or more of the following situations: 61112

~~(a)(1)~~ Loss of present residence for any reason, including 61113  
legal action; 61114

~~(b)(2)~~ Loss of present caretaker for any reason, including 61115  
serious illness of the caretaker, change in the caretaker's 61116  
status, or inability of the caretaker to perform effectively for 61117  
the individual; 61118

~~(c)(3)~~ Abuse, neglect, or exploitation of the individual; 61119

~~(d)(4)~~ Health and safety conditions that pose a serious risk 61120  
to the individual or others of immediate harm or death; 61121

~~(e)(5)~~ Change in the emotional or physical condition of the 61122  
individual that necessitates substantial accommodation that cannot 61123  
be reasonably provided by the individual's existing caretaker. 61124

~~(2) "Medicaid" has the same meaning as in section 5111.01 of 61125  
the Revised Code. 61126~~

(B) If a county board of mental retardation and developmental 61127  
disabilities determines that available resources are not 61128  
sufficient to meet the needs of all individuals who request 61129  
programs and services and may be offered the programs and 61130  
services, it shall establish waiting lists for services. The board 61131

may establish priorities for making placements on its waiting 61132  
lists according to an individual's emergency status and shall 61133  
establish priorities in accordance with ~~division~~ divisions (D) and 61134  
(E) of this section. 61135

The individuals who may be placed on a waiting list include 61136  
individuals with a need for services on an emergency basis and 61137  
individuals who have requested services for which resources are 61138  
not available. 61139

Except for an individual who is to receive priority for 61140  
services pursuant to division (D)(3) of this section, an 61141  
individual who currently receives a service but would like to 61142  
change to another service shall not be placed on a waiting list 61143  
but shall be placed on a service substitution list. The board 61144  
shall work with the individual, service providers, and all 61145  
appropriate entities to facilitate the change in service as 61146  
expeditiously as possible. The board may establish priorities for 61147  
making placements on its service substitution lists according to 61148  
an individual's emergency status. 61149

In addition to maintaining waiting lists and service 61150  
substitution lists, a board shall maintain a long-term service 61151  
planning registry for individuals who wish to record their 61152  
intention to request in the future a service they are not 61153  
currently receiving. The purpose of the registry is to enable the 61154  
board to document requests and to plan appropriately. The board 61155  
may not place an individual on the registry who meets the 61156  
conditions for receipt of services on an emergency basis. 61157

(C) A county board shall establish a separate waiting list 61158  
for each of the following categories of services, and may 61159  
establish separate waiting lists within the waiting lists: 61160

(1) Early childhood services; 61161

(2) Educational programs for preschool and school age 61162

children;	61163
(3) Adult services;	61164
(4) Service and support administration;	61165
(5) Residential services and supported living;	61166
(6) Transportation services;	61167
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	61168 61169 61170
(8) Family support services provided under section 5126.11 of the Revised Code.	61171 61172
(D) Except as provided in division <del>(F)</del> (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:	61173 61174 61175 61176 61177
(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:	61178 61179 61180 61181
(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:	61182 61183 61184 61185 61186 61187
(i) Is twenty-two years of age or older;	61188
(ii) Receives supported living or family support services.	61189
(b) Give an individual who is eligible for home and community-based services and meets both of the following	61190 61191

requirements priority over any other individual on a waiting list 61192  
established under division (C) of this section for home and 61193  
community-based services that include adult services: 61194

(i) Resides in the individual's own home or the home of the 61195  
individual's family and will continue to reside in that home after 61196  
enrollment in home and community-based services; 61197

(ii) Receives adult services from the county board. 61198

(2) As federal medicaid funds become available pursuant to 61199  
division (D)(1) of this section, give an individual who is 61200  
eligible for home and community-based services and meets any of 61201  
the following requirements priority for such services over any 61202  
other individual on a waiting list established under division (C) 61203  
of this section: 61204

(a) Does not receive residential services or supported 61205  
living, either needs services in the individual's current living 61206  
arrangement or will need services in a new living arrangement, and 61207  
has a primary caregiver who is sixty years of age or older; 61208

(b) Is less than twenty-two years of age and has at least one 61209  
of the following service needs that are unusual in scope or 61210  
intensity: 61211

(i) Severe behavior problems for which a behavior support 61212  
plan is needed; 61213

(ii) An emotional disorder for which anti-psychotic 61214  
medication is needed; 61215

(iii) A medical condition that leaves the individual 61216  
dependent on life-support medical technology; 61217

(iv) A condition affecting multiple body systems for which a 61218  
combination of specialized medical, psychological, educational, or 61219  
habilitation services are needed; 61220

(v) A condition the county board determines to be comparable 61221

in severity to any condition described in division (D)(2)(b)(i) to 61222  
(iv) of this section and places the individual at significant risk 61223  
of institutionalization. 61224

(c) Is twenty-two years of age or older, does not receive 61225  
residential services or supported living, and is determined by the 61226  
county board to have intensive needs for home and community-based 61227  
services on an in-home or out-of-home basis. 61228

(3) In fiscal years 2002 and 2003, give an individual who is 61229  
eligible for home and community-based services, resides in an 61230  
intermediate care facility for the mentally retarded or nursing 61231  
facility, chooses to move to another setting with the help of home 61232  
and community-based services, and has been determined by the 61233  
department of mental retardation and developmental disabilities to 61234  
be capable of residing in the other setting, priority over any 61235  
other individual on a waiting list established under division (C) 61236  
of this section for home and community-based services who does not 61237  
meet these criteria. The department of mental retardation and 61238  
developmental disabilities shall identify the individuals to 61239  
receive priority under division (D)(3) of this section, assess the 61240  
needs of the individuals, and notify the county boards that are to 61241  
provide the individuals priority under division (D)(3) of this 61242  
section of the individuals identified by the department and the 61243  
individuals' assessed needs. 61244

(E) Except as provided in division (G) of this section and 61245  
for a number of years and beginning on a date specified in rules 61246  
adopted under division (K) of this section, a county board shall 61247  
give an individual who is eligible for home and community-based 61248  
services, resides in a nursing facility, and chooses to move to 61249  
another setting with the help of home and community-based 61250  
services, priority over any other individual on a waiting list 61251  
established under division (C) of this section for home and 61252  
community-based services who does not meet these criteria. 61253

(F) If two or more individuals on a waiting list established 61254  
under division (C) of this section for home and community-based 61255  
services have priority for the services pursuant to division 61256  
(D)(1) or (2) or (E) of this section, a county board may use, 61257  
until December 31, ~~2003~~ 2005, criteria specified in rules adopted 61258  
under division ~~(J)~~(K)(2) of this section in determining the order 61259  
in which the individuals with priority will be offered the 61260  
services. Otherwise, the county board shall offer the home and 61261  
community-based services to such individuals in the order they are 61262  
placed on the waiting list. 61263

~~(F)~~(G)(1) No individual may receive priority for services 61264  
pursuant to division (D) or (E) of this section over an individual 61265  
placed on a waiting list established under division (C) of this 61266  
section on an emergency status. 61267

(2) No more than four hundred individuals in the state may 61268  
receive priority for services during the ~~2002~~ 2004 and ~~2003~~ 2005 61269  
biennium pursuant to division (D)(2)(b) of this section. 61270

(3) No more than a total of seventy-five individuals in the 61271  
state may receive priority for services during state fiscal years 61272  
2002 and 2003 pursuant to division (D)(3) of this section. 61273

~~(G)~~(4) No more than forty individuals in the state may 61274  
receive priority for services pursuant to division (E) of this 61275  
section for each year that priority category is in effect as 61276  
specified in rules adopted under division (K) of this section. 61277

(H) Prior to establishing any waiting list under this 61278  
section, a county board shall develop and implement a policy for 61279  
waiting lists that complies with this section and rules adopted 61280  
under division ~~(J)~~(K) of this section. 61281

Prior to placing an individual on a waiting list, the county 61282  
board shall assess the service needs of the individual in 61283  
accordance with all applicable state and federal laws. The county 61284

board shall place the individual on the appropriate waiting list 61285  
and may place the individual on more than one waiting list. The 61286  
county board shall notify the individual of the individual's 61287  
placement and position on each waiting list on which the 61288  
individual is placed. 61289

At least annually, the county board shall reassess the 61290  
service needs of each individual on a waiting list. If it 61291  
determines that an individual no longer needs a program or 61292  
service, the county board shall remove the individual from the 61293  
waiting list. If it determines that an individual needs a program 61294  
or service other than the one for which the individual is on the 61295  
waiting list, the county board shall provide the program or 61296  
service to the individual or place the individual on a waiting 61297  
list for the program or service in accordance with the board's 61298  
policy for waiting lists. 61299

When a program or service for which there is a waiting list 61300  
becomes available, the county board shall reassess the service 61301  
needs of the individual next scheduled on the waiting list to 61302  
receive that program or service. If the reassessment demonstrates 61303  
that the individual continues to need the program or service, the 61304  
board shall offer the program or service to the individual. If it 61305  
determines that an individual no longer needs a program or 61306  
service, the county board shall remove the individual from the 61307  
waiting list. If it determines that an individual needs a program 61308  
or service other than the one for which the individual is on the 61309  
waiting list, the county board shall provide the program or 61310  
service to the individual or place the individual on a waiting 61311  
list for the program or service in accordance with the board's 61312  
policy for waiting lists. The county board shall notify the 61313  
individual of the individual's placement and position on the 61314  
waiting list on which the individual is placed. 61315

~~(H)~~(I) A child subject to a determination made pursuant to 61316

section 121.38 of the Revised Code who requires the home and 61317  
community-based services provided through ~~the~~ a medicaid component 61318  
that the department of mental retardation and developmental 61319  
disabilities administers under section 5111.871 of the Revised 61320  
Code shall receive services through that medicaid component. For 61321  
all other services, a child subject to a determination made 61322  
pursuant to section 121.38 of the Revised Code shall be treated as 61323  
an emergency by the county boards and shall not be subject to a 61324  
waiting list. 61325

~~(I)~~(J) Not later than the fifteenth day of March of each 61326  
even-numbered year, each county board shall prepare and submit to 61327  
the director of mental retardation and developmental disabilities 61328  
its recommendations for the funding of services for individuals 61329  
with mental retardation and developmental disabilities and its 61330  
proposals for reducing the waiting lists for services. 61331

~~(J)~~(K)(1) The department of mental retardation and 61332  
developmental disabilities shall adopt rules in accordance with 61333  
Chapter 119. of the Revised Code governing waiting lists 61334  
established under this section. The rules shall include procedures 61335  
to be followed to ensure that the due process rights of 61336  
individuals placed on waiting lists are not violated. 61337

(2) As part of the rules adopted under this division, the 61338  
department shall adopt, ~~not later than December 31, 2001,~~ rules 61339  
establishing criteria a county board may use under division ~~(E)~~(F) 61340  
of this section in determining the order in which individuals with 61341  
priority for home and community-based services will be offered the 61342  
services. The rules shall also specify conditions under which a 61343  
county board, when there is no individual with priority for home 61344  
and community-based services pursuant to division (D)(1) or (2) or 61345  
(E) of this section available and appropriate for the services, 61346  
may offer the services to an individual on a waiting list for the 61347  
services but not given such priority for the services. The rules 61348

adopted under division ~~(J)~~(K)(2) of this section shall cease to 61349  
have effect December 31, ~~2003~~ 2005. 61350

~~(K)~~(3) As part of the rules adopted under this division, the 61351  
department shall adopt rules specifying both of the following for 61352  
the priority category established under division (E) of this 61353  
section: 61354

(a) The number of years, which shall not exceed five, that 61355  
the priority category will be in effect; 61356

(b) The date that the priority category is to go into effect. 61357

(L) The following shall take precedence over the applicable 61358  
provisions of this section: 61359

(1) Medicaid rules and regulations; 61360

(2) Any specific requirements that may be contained within a 61361  
medicaid state plan amendment or waiver program that a county 61362  
board has authority to administer or with respect to which it has 61363  
authority to provide services, programs, or supports. 61364

**Sec. 5126.058.** (A) The director of job and family services 61365  
shall seek federal financial participation for the administrative 61366  
costs for the following that each county board of mental 61367  
retardation and developmental disabilities incurs pursuant to its 61368  
medicaid local administrative authority under section 5126.055 of 61369  
the Revised Code and claims in accordance with rules adopted under 61370  
this section: 61371

(1) Home and community-based services; 61372

(2) Habilitation center services; 61373

(3) Service and support administration provided in 61374  
conjunction with any of the services listed in divisions (A)(1) 61375  
and (2) of this section. 61376

(B) The administrative costs for which the director shall 61377

<u>seek federal financial participation under this section shall</u>	61378
<u>include all of the following:</u>	61379
<u>(1) Business management;</u>	61380
<u>(2) Contract management;</u>	61381
<u>(3) General administration;</u>	61382
<u>(4) Personnel management;</u>	61383
<u>(5) Contract services for legal or representational</u>	61384
<u>activities that are conducted on a county-specific, multi-county,</u>	61385
<u>or statewide basis and provided as part of initiatives to</u>	61386
<u>refinance or reform the medicaid program, to improve the</u>	61387
<u>administration of the medicaid program, or to increase the</u>	61388
<u>services covered by the medicaid program.</u>	61389
<u>(C) Except as provided in division (D) of this section,</u>	61390
<u>federal financial participation obtained pursuant to a claim made</u>	61391
<u>under this section shall be paid to the county board that makes</u>	61392
<u>the claim.</u>	61393
<u>(D) The department of mental retardation and development</u>	61394
<u>disabilities shall collect one per cent of the federal financial</u>	61395
<u>participation obtained pursuant to each claim made under this</u>	61396
<u>section. The amount the department collects under this division</u>	61397
<u>shall be deposited into the ODMR/DD administrative and oversight</u>	61398
<u>fund created under section 5123.0412 of the Revised Code.</u>	61399
<u>(E) The director of job and family services shall adopt rules</u>	61400
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	61401
<u>for the implementation of this section. The director shall adopt</u>	61402
<u>the rules in consultation with the director of mental retardation</u>	61403
<u>and developmental disabilities. The rules shall be consistent with</u>	61404
<u>federal regulations governing the medicaid program and shall</u>	61405
<u>comply with all of the following:</u>	61406
<u>(1) A county board may not claim more than fifteen per cent</u>	61407

of its administrative costs for home and community-based services 61408  
and habilitation center services. 61409

(2) A county board may not claim more than fifty per cent of 61410  
its administrative costs for service and support administration 61411  
provided in conjunction with any of the services listed in 61412  
division (A)(1) or (2) of this section. 61413

(3) A county board shall verify the administrative costs for 61414  
which it seeks federal financial participation in accordance with 61415  
a time study or actual billing provided for by the rules. 61416

(4) A county board may make a claim for administrative costs 61417  
incurred before, on, or after the effective date of this section. 61418

**Sec. 5126.11.** (A) As used in this section, "respite care" 61419  
means appropriate, short-term, temporary care that is provided to 61420  
a mentally retarded or developmentally disabled person to sustain 61421  
the family structure or to meet planned or emergency needs of the 61422  
family. 61423

(B) Subject to rules adopted by the director of mental 61424  
retardation and developmental disabilities, and subject to the 61425  
availability of money from state and federal sources, the county 61426  
board of mental retardation and developmental disabilities shall 61427  
establish a family support services program. Under such a program, 61428  
the board shall make payments to an individual with mental 61429  
retardation or other developmental disability or the family of an 61430  
individual with mental retardation or other developmental 61431  
disability who desires to remain in and be supported in the family 61432  
home. Payments shall be made for all or part of costs incurred or 61433  
estimated to be incurred for services that would promote 61434  
self-sufficiency and normalization, prevent or reduce 61435  
inappropriate institutional care, and further the unity of the 61436  
family by enabling the family to meet the special needs of the 61437  
individual and to live as much like other families as possible. 61438

Payments may be made in the form of reimbursement for expenditures 61439  
or in the form of vouchers to be used to purchase services. 61440

(C) Payment shall not be made under this section to an 61441  
individual or the individual's family if the individual is living 61442  
in a residential facility that is providing residential services 61443  
under contract with the department of mental retardation and 61444  
developmental disabilities or a county board. 61445

(D) Payments may be made for the following services: 61446

(1) Respite care, in or out of the home; 61447

(2) Counseling, supervision, training, and education of the 61448  
individual, the individual's caregivers, and members of the 61449  
individual's family that aid the family in providing proper care 61450  
for the individual, provide for the special needs of the family, 61451  
and assist in all aspects of the individual's daily living; 61452

(3) Special diets, purchase or lease of special equipment, or 61453  
modifications of the home, if such diets, equipment, or 61454  
modifications are necessary to improve or facilitate the care and 61455  
living environment of the individual; 61456

(4) Providing support necessary for the individual's 61457  
continued skill development, including such services as 61458  
development of interventions to cope with unique problems that may 61459  
occur within the complexity of the family, enrollment of the 61460  
individual in special summer programs, provision of appropriate 61461  
leisure activities, and other social skills development 61462  
activities; 61463

(5) Any other services that are consistent with the purposes 61464  
specified in division (B) of this section and specified in the 61465  
individual's service plan. 61466

(E) In order to be eligible for payments under a family 61467  
support services program, the individual or the individual's 61468

family must reside in the county served by the county board, and 61469  
the individual must be in need of habilitation. Payments shall be 61470  
adjusted for income in accordance with the payment schedule 61471  
established in rules adopted under this section. Payments shall be 61472  
made only after the county board has taken into account all other 61473  
available assistance for which the individual or family is 61474  
eligible. 61475

(F) Before incurring expenses for a service for which payment 61476  
will be sought under a family support services program, the 61477  
individual or family shall apply to the county board for a 61478  
determination of eligibility and approval of the service. The 61479  
service need not be provided in the county served by the county 61480  
board. After being determined eligible and receiving approval for 61481  
the service, the individual or family may incur expenses for the 61482  
service or use the vouchers received from the county board for the 61483  
purchase of the service. 61484

If the county board refuses to approve a service, an appeal 61485  
may be made in accordance with rules adopted by the department 61486  
under this section. 61487

(G) To be reimbursed for expenses incurred for approved 61488  
services, the individual or family shall submit to the county 61489  
board a statement of the expenses incurred accompanied by any 61490  
evidence required by the board. To redeem vouchers used to 61491  
purchase approved services, the entity that provided the service 61492  
shall submit to the county board evidence that the service was 61493  
provided and a statement of the charges. The county board shall 61494  
make reimbursements and redeem vouchers no later than forty-five 61495  
days after it receives the statements and evidence required by 61496  
this division. 61497

(H) A county board shall consider the following objectives in 61498  
carrying out a family support services program: 61499

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;	61500 61501 61502
(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;	61503 61504 61505 61506
(3) Providing services to eligible children and adults currently residing in the community;	61507 61508
(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	61509 61510
(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:	61511 61512 61513
(1) A payment schedule adjusted for income;	61514
(2) A formula for distributing to county boards the money appropriated for family support services;	61515 61516
(3) Standards for supervision, training, and quality control in the provision of respite care services;	61517 61518
(4) Eligibility standards and procedures for providing temporary emergency respite care;	61519 61520
(5) Procedures for hearing and deciding appeals made under division (F) of this section;	61521 61522
(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.	61523 61524
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	61525 61526 61527 61528

Code. 61529

(J) All individuals certified by the superintendent of the 61530  
county board as eligible for temporary emergency respite care in 61531  
accordance with rules adopted under this section shall be 61532  
considered eligible for temporary emergency respite care for not 61533  
more than five days to permit the determination of eligibility for 61534  
family support services. The requirements of divisions (E) and (F) 61535  
of this section do not apply to temporary emergency respite care. 61536

(K) ~~On the first day of July of each year, the~~ The department 61537  
of mental retardation and developmental disabilities shall 61538  
distribute to county boards money appropriated for family support 61539  
services in quarterly installments of equal amounts. The 61540  
installments shall be made not later than the thirtieth day of 61541  
September, the thirty-first day of December, the thirty-first day 61542  
of March, and the thirtieth day of June. A county board shall use 61543  
no more than seven per cent of the funds for administrative costs. 61544  
Each county board shall submit reports to the department on 61545  
payments made under this section. The reports shall be submitted 61546  
at those times and in the manner specified in rules adopted under 61547  
this section. 61548

(L) The county board shall not be required to make payments 61549  
for family support services at a level that exceeds available 61550  
state and federal funds for such payments. 61551

**Sec. 5126.12.** (A) As used in this section: 61552

(1) "Approved school age class" means a class operated by a 61553  
county board of mental retardation and developmental disabilities 61554  
and funded by the department of education under section 3317.20 of 61555  
the Revised Code. 61556

(2) "Approved preschool unit" means a class or unit operated 61557  
by a county board of mental retardation and developmental 61558

disabilities and approved ~~by the state board of education~~ under 61559  
division (B) of section 3317.05 of the Revised Code. 61560

(3) "Active treatment" means a continuous treatment program, 61561  
which includes aggressive, consistent implementation of a program 61562  
of specialized and generic training, treatment, health services, 61563  
and related services, that is directed toward the acquisition of 61564  
behaviors necessary for an individual with mental retardation or 61565  
other developmental disability to function with as much 61566  
self-determination and independence as possible and toward the 61567  
prevention of deceleration, regression, or loss of current optimal 61568  
functional status. 61569

(4) "Eligible for active treatment" means that an individual 61570  
with mental retardation or other developmental disability resides 61571  
in an intermediate care facility for the mentally retarded 61572  
certified under Title XIX of the "Social Security Act," ~~49~~ 79 61573  
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, as amended; resides 61574  
in a state institution operated by the department of mental 61575  
retardation and developmental disabilities; or is enrolled in a 61576  
home and community-based services waiver program ~~administered by~~ 61577  
~~the department of mental retardation and developmental~~ 61578  
~~disabilities as part of the medical assistance program established~~ 61579  
~~under section 5111.01 of the Revised Code.~~ 61580

(5) "Community alternative funding system" means the program 61581  
under which habilitation center services are reimbursed under the 61582  
medicaid program pursuant to section 5111.041 of the Revised Code 61583  
and rules adopted under that section. 61584

(6) "Traditional adult services" means vocational and 61585  
nonvocational activities conducted within a sheltered workshop or 61586  
adult activity center or supportive home services. 61587

(B) Each county board of mental retardation and developmental 61588  
disabilities shall certify to the director of mental retardation 61589

and developmental disabilities all of the following:	61590
(1) On or before the fifteenth day of October, the average	61591
daily membership for the first full week of programs and services	61592
during October receiving:	61593
(a) Early childhood services provided pursuant to section	61594
5126.05 of the Revised Code for children who are less than three	61595
years of age on the thirtieth day of September of the academic	61596
year;	61597
(b) Special education for handicapped children in approved	61598
school age classes;	61599
(c) Adult services for persons sixteen years of age and older	61600
operated pursuant to section 5126.05 and division (B) of section	61601
5126.051 of the Revised Code. Separate counts shall be made for	61602
the following:	61603
(i) Persons enrolled in traditional adult services who are	61604
eligible for but not enrolled in active treatment under the	61605
community alternative funding system;	61606
(ii) Persons enrolled in traditional adult services who are	61607
eligible for and enrolled in active treatment under the community	61608
alternative funding system;	61609
(iii) Persons enrolled in traditional adult services but who	61610
are not eligible for active treatment under the community	61611
alternative funding system;	61612
(iv) Persons participating in community employment services.	61613
To be counted as participating in community employment services, a	61614
person must have spent an average of no less than ten hours per	61615
week in that employment during the preceding six months.	61616
(d) Other programs in the county for individuals with mental	61617
retardation and developmental disabilities that have been approved	61618
for payment of subsidy by the department of mental retardation and	61619

developmental disabilities. 61620

The membership in each such program and service in the county 61621  
shall be reported on forms prescribed by the department of mental 61622  
retardation and developmental disabilities. 61623

The department of mental retardation and developmental 61624  
disabilities shall adopt rules defining full-time equivalent 61625  
enrollees and for determining the average daily membership 61626  
therefrom, except that certification of average daily membership 61627  
in approved school age classes shall be in accordance with rules 61628  
adopted by the state board of education. The average daily 61629  
membership figure shall be determined by dividing the amount 61630  
representing the sum of the number of enrollees in each program or 61631  
service in the week for which the certification is made by the 61632  
number of days the program or service was offered in that week. No 61633  
enrollee may be counted in average daily membership for more than 61634  
one program or service. 61635

(2) By the fifteenth day of December, the number of children 61636  
enrolled in approved preschool units on the first day of December; 61637

(3) On or before the thirtieth day of March, an itemized 61638  
report of all income and operating expenditures for the 61639  
immediately preceding calendar year, in the format specified by 61640  
the department of mental retardation and developmental 61641  
disabilities; 61642

(4) By the fifteenth day of February, a report of the total 61643  
annual cost per enrollee for operation of programs and services in 61644  
the preceding calendar year. The report shall include a grand 61645  
total of all programs operated, the cost of the individual 61646  
programs, and the sources of funds applied to each program. 61647

(5) That each required certification and report is in 61648  
accordance with rules established by the department of mental 61649  
retardation and developmental disabilities and the state board of 61650

education for the operation and subsidization of the programs and 61651  
services. 61652

(C) To compute payments under this section to the board for 61653  
the fiscal year, the department of mental retardation and 61654  
developmental disabilities shall use the certification of average 61655  
daily membership required by division (B)(1) of this section 61656  
exclusive of the average daily membership in any approved school 61657  
age class and the number in any approved preschool unit. 61658

(D) The department shall pay each county board for each 61659  
fiscal year an amount equal to nine hundred fifty dollars times 61660  
the certified number of persons who on the first day of December 61661  
of the academic year are under three years of age and are not in 61662  
an approved preschool unit. For persons who are at least age 61663  
sixteen and are not in an approved school age class, the 61664  
department shall pay each county board for each fiscal year the 61665  
following amounts: 61666

(1) One thousand dollars times the certified average daily 61667  
membership of persons enrolled in traditional adult services who 61668  
are eligible for but not enrolled in active treatment under the 61669  
community alternative funding system; 61670

(2) One thousand two hundred dollars times the certified 61671  
average daily membership of persons enrolled in traditional adult 61672  
services who are eligible for and enrolled in active treatment 61673  
under the community alternative funding system; 61674

(3) No less than one thousand five hundred dollars times the 61675  
certified average daily membership of persons enrolled in 61676  
traditional adult services but who are not eligible for active 61677  
treatment under the community alternative funding system; 61678

(4) No less than one thousand five hundred dollars times the 61679  
certified average daily membership of persons participating in 61680  
community employment services. 61681

(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 61713  
minimum education and experience requirements for the position of 61714  
business manager and shall specify requirements for courses in 61715  
fiscal and business management that are annually sponsored or 61716  
certified by the department and that are applicable to the 61717  
position and designed to teach effective business practices. Each 61718  
county board of mental retardation and developmental disabilities 61719  
that employs a business manager in accordance with the standards 61720  
adopted under this section may receive a subsidy from the 61721  
department. 61722

The department shall distribute this subsidy to eligible 61723  
county boards in quarterly installments of equal amounts. The 61724  
installments shall be made not later than the thirtieth day of 61725  
September, the thirty-first day of December, the thirty-first day 61726  
of March, and the thirtieth day of June. 61727

**Sec. 5126.15.** (A) A county board of mental retardation and 61728  
developmental disabilities shall provide service and support 61729  
administration to each individual three years of age or older who 61730  
is eligible for service and support administration if the 61731  
individual requests, or a person on the individual's behalf 61732  
requests, service and support administration. A board shall 61733  
provide service and support administration to each individual 61734  
receiving home and community-based services. A board may provide, 61735  
in accordance with the service coordination requirements of 34 61736  
C.F.R. 303.23, service and support administration to an individual 61737  
under three years of age eligible for early intervention services 61738  
under 34 C.F.R. part 303. A board may provide service and support 61739  
administration to an individual who is not eligible for other 61740  
services of the board. Service and support administration shall be 61741  
provided in accordance with rules adopted under section 5126.08 of 61742  
the Revised Code. 61743

A board may provide service and support administration by 61744  
directly employing service and support administrators or by 61745  
contracting with entities for the performance of service and 61746  
support administration. Individuals employed or under contract as 61747  
service and support administrators shall not be in the same 61748  
collective bargaining unit as employees who perform duties that 61749  
are not administrative. 61750

Individuals employed by a board as service and support 61751  
administrators shall not be assigned responsibilities for 61752  
implementing other services for individuals and shall not be 61753  
employed by or serve in a decision-making or policy-making 61754  
capacity for any other entity that provides programs or services 61755  
to individuals with mental retardation or developmental 61756  
disabilities. An individual employed as a conditional status 61757  
service and support administrator shall perform the duties of 61758  
service and support administration only under the supervision of a 61759  
management employee who is a service and support administration 61760  
supervisor or a professional employee who is a service and support 61761  
administrator. 61762

(B) The individuals employed by or under contract with a 61763  
board to provide service and support administration shall do all 61764  
of the following: 61765

(1) Establish an individual's eligibility for the services of 61766  
the county board of mental retardation and developmental 61767  
disabilities; 61768

(2) Assess individual needs for services; 61769

(3) Develop individual service plans with the active 61770  
participation of the individual to be served, other persons 61771  
selected by the individual, and, when applicable, the provider 61772  
selected by the individual, and recommend the plans for approval 61773  
by the department of mental retardation and developmental 61774

disabilities when services included in the plans are funded	61775
through medicaid;	61776
(4) Establish budgets for services based on the individual's	61777
assessed needs and preferred ways of meeting those needs;	61778
(5) Assist individuals in making selections from among the	61779
providers they have chosen;	61780
(6) Ensure that services are effectively coordinated and	61781
provided by appropriate providers;	61782
(7) Establish and implement an ongoing system of monitoring	61783
the implementation of individual service plans to achieve	61784
consistent implementation and the desired outcomes for the	61785
individual;	61786
(8) Perform quality assurance reviews as a distinct function	61787
of service and support administration;	61788
(9) Incorporate the results of quality assurance reviews and	61789
identified trends and patterns of unusual incidents and major	61790
unusual incidents into amendments of an individual's service plan	61791
for the purpose of improving and enhancing the quality and	61792
appropriateness of services rendered to the individual;	61793
(10) Ensure that each individual receiving services has a	61794
designated person who is responsible on a continuing basis for	61795
providing the individual with representation, advocacy, advice,	61796
and assistance related to the day-to-day coordination of services	61797
in accordance with the individual's service plan. The service and	61798
support administrator shall give the individual receiving services	61799
an opportunity to designate the person to provide daily	61800
representation. If the individual declines to make a designation,	61801
the administrator shall make the designation. In either case, the	61802
individual receiving services may change at any time the person	61803
designated to provide daily representation.	61804

(C) Subject to available funds, the department of mental 61805  
retardation and developmental disabilities shall pay a county 61806  
board an annual subsidy for service and support administration. 61807  
The amount of the subsidy shall be equal to the greater of twenty 61808  
thousand dollars or two hundred dollars times the board's 61809  
certified average daily membership. The payments shall be made in 61810  
~~semiannual~~ quarterly installments of equal amounts, which shall be 61811  
made no later than the thirtieth day of September, the 61812  
thirty-first day of ~~August and December,~~ the thirty-first day of 61813  
~~January March, and the thirtieth day of June.~~ Funds received shall 61814  
be used solely for service and support administration. 61815

**Sec. 5126.18.** (A) As used in this section: 61816

(1) "County board" means a county board of mental retardation 61817  
and developmental disabilities. 61818

(2) Notwithstanding section 5126.01 of the Revised Code, 61819  
"adult services" means the following services, as they are 61820  
identified on individual information forms submitted by county 61821  
boards to the department of mental retardation and developmental 61822  
disabilities for the purpose of subsidies paid to county boards 61823  
under section 5126.12 of the Revised Code, provided to an 61824  
individual with mental retardation or other developmental 61825  
disability who is at least twenty-two years of age: 61826

(a) Assessment; 61827

(b) Home service; 61828

(c) Adult program; 61829

(d) Community employment services; 61830

(e) Retirement. 61831

(3) "Adult services enrollment" means a county board's 61832  
average daily membership in adult services, exclusive of such 61833

services provided to individuals served solely through service and 61834  
support administration provided pursuant to section 5126.15 of the 61835  
Revised Code or family support services provided pursuant to 61836  
section 5126.11 of the Revised Code. 61837

(4) "Taxable value" means the taxable value of a county board 61838  
certified under division (B)(1) of this section. 61839

(5) "Per-mill yield" of a county board means the quotient 61840  
obtained by dividing (a) the taxable value of the county board by 61841  
(b) one thousand. 61842

(6) "Local adult services cost" means a county board's 61843  
expenditures for adult services, excluding all federal and state 61844  
reimbursements and subsidy allocations received by such boards and 61845  
expended for such services, as certified under section 5126.12 of 61846  
the Revised Code. 61847

(7) "Statewide average millage" means one thousand multiplied 61848  
by the quotient obtained by dividing (a) the total of the local 61849  
adult services costs of all county boards by (b) the total of the 61850  
taxable values of all county boards. 61851

(8) "County yield" of a county board means the product 61852  
obtained by multiplying (a) the statewide average millage by (b) 61853  
the per-mill yield of the county board. 61854

(9) "County yield per enrollee" of a county board means the 61855  
quotient obtained by dividing (a) the county yield of the county 61856  
board by (b) the adult enrollment of the county board. 61857

(10) "Statewide yield per enrollee" means the quotient 61858  
obtained by dividing (a) the sum of the county yields of all 61859  
county boards by (b) the sum of the adult enrollments of all 61860  
county boards. 61861

(11) "Local tax effort for adult services" of a county board 61862  
means one thousand multiplied by the quotient obtained by dividing 61863

(a) the local adult services cost of the county board by (b) the taxable value of the county board. 61864  
61865

(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. 61866  
61867  
61868  
61869  
61870

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year. 61871  
61872  
61873

(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. 61874  
61875  
61876  
61877  
61878  
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61880  
61881

(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost. 61882  
61883  
61884

(C) Each year, the department of mental retardation and developmental disabilities shall compute the following: 61885  
61886

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee; 61887  
61888  
61889

(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; 61890  
61891  
61892

(3) The sum of the amounts computed under division (C)(2) of 61893

this section for all county boards. 61894

(D) From money appropriated for the purpose, the department, 61895  
~~on or before the thirtieth day of September of each year,~~ shall 61896  
provide for payment to each county board of the amount computed 61897  
for that county board under division (C)(2) of this section, 61898  
subject to any reduction or adjustment under division (E), (F), or 61899  
(G) of this section. The department shall make the payments in 61900  
quarterly installments of equal amounts. The installments shall be 61901  
made not later than the thirtieth day of September, thirty-first 61902  
day of December, thirty-first day of March, and thirtieth day of 61903  
June. 61904

(E) If a county board's local tax effort for adult services 61905  
is less than the funding-adjusted required millage, the director 61906  
shall reduce the amount of payment otherwise computed under 61907  
division (C)(2) of this section so that the amount paid, after the 61908  
reduction, is the same percentage of the amount computed under 61909  
division (C)(2) of this section as the county board's local tax 61910  
effort for adult services is of the funding-adjusted required 61911  
millage. 61912

If the director reduces the amount of a county board's 61913  
payment under this division, the department, not later than the 61914  
fifteenth day of July, shall notify the county board of the 61915  
reduction and the amount of the reduction. The notice shall 61916  
include a statement that the county board may request to be 61917  
exempted from the reduction by filing a request with the director, 61918  
in the manner and form prescribed by the director, within 61919  
twenty-one days after such notification is issued. The board may 61920  
present evidence of its attempt to obtain passage of levies or any 61921  
other extenuating circumstances the board considers relevant. If 61922  
the county board requests a hearing before the director to present 61923  
such evidence, the director shall conduct a hearing on the request 61924  
unless the director exempts the board from the reduction on the 61925

basis of the evidence presented in the request filed by the board. 61926  
Upon receiving a properly and timely filed request for exemption, 61927  
but not later than the thirty-first day of August, the director 61928  
shall determine whether the county board shall be exempted from 61929  
all or a part of the reduction. The director may exempt the board 61930  
from all or part of the reduction if the director finds that the 61931  
board has made good faith efforts to obtain passage of tax levies 61932  
or that there are extenuating circumstances. 61933

(F) If a payment is reduced under division (E) of this 61934  
section and the director does not exempt the county board from the 61935  
reduction, the amount of the reduction shall be apportioned among 61936  
all county boards entitled to payments under this section for 61937  
which payments were not so reduced. The amount apportioned to each 61938  
county board shall be proportionate to the amount of the board's 61939  
payment as computed under division (C)(2) of this section. 61940

(G) If, for any fiscal year, the amount appropriated to the 61941  
department for the purpose of this section is less than the amount 61942  
computed under division (C)(3) of this section for the fiscal 61943  
year, the department shall adjust the amount of each payment as 61944  
computed under divisions (C)(2), (E), and (F) of this section by 61945  
multiplying that amount by the funding percentage. 61946

(H) The payments authorized by this section are supplemental 61947  
to all other funds that may be received by a county board. A 61948  
county board shall use the payments solely to pay the nonfederal 61949  
share of medicaid expenditures that division (A) of section 61950  
5126.057 of the Revised Code requires the county board to pay. 61951

**Sec. 5126.44.** (A) The department of mental retardation and 61952  
developmental disabilities, in accordance with Chapter 119. of the 61953  
Revised Code, shall adopt rules for making allocations for 61954  
counties and distributing to county boards of mental retardation 61955  
and developmental disabilities money to be used for planning, 61956

development, contracting for, and providing supported living. The 61957  
rules shall provide for an allocation to be made for each county 61958  
on an equitable basis, taking into account any factors that 61959  
indicate need for supported living for residents of the county. 61960

(B) The department shall annually allocate for each county an 61961  
amount determined in accordance with the rules adopted under this 61962  
section. Except as provided in division (C) of this section, the 61963  
department shall distribute the amount allocated for the county to 61964  
each county board. Money shall be distributed to county boards in 61965  
~~two quarterly~~ installments ~~annually~~, which shall be paid no later 61966  
than the ~~last day of July and the last day of December~~ thirtieth 61967  
day of September, the thirty-first day of December, the 61968  
thirty-first day of March, and the thirtieth day of June. In the 61969  
case of a county that has not adopted a resolution under division 61970  
(B) of section 5126.40 of the Revised Code, the department shall 61971  
use the money allocated for the county to provide supported living 61972  
under section 5123.182 of the Revised Code. 61973

(C) The department shall not distribute money to a county 61974  
board for residential services that are being provided by a 61975  
provider under contract with the department on the effective date 61976  
of this amendment unless the provider and the county board agree 61977  
to enter into a contract between the provider and the county board 61978  
under which the provider will provide the services as supported 61979  
living. If the conversion of a contract occurs under this 61980  
division, the provisions of section 5126.451 shall apply as though 61981  
the contract was transferred under that section. 61982

(D) Pursuant to section 5126.05 of the Revised Code, the 61983  
county board shall annually adopt a separate budget for money 61984  
distributed to it under this section. The board shall cause the 61985  
money to be deposited in a fund created pursuant to division (F) 61986  
of section 5705.09 of the Revised Code which shall be known as the 61987  
"community mental retardation and developmental disabilities 61988

residential services and supported living fund." The fund shall 61989  
consist of this money and any other money for residential services 61990  
or supported living that the board causes to be deposited in the 61991  
fund. A county board is not required to use any other money for 61992  
residential services or supported living. A county board may 61993  
establish a reserve balance account within this fund pursuant to 61994  
division (C)(2) of section 5705.28 of the Revised Code. 61995

(E) The department of mental retardation and developmental 61996  
disabilities may adopt rules under Chapter 119. of the Revised 61997  
Code establishing procedures for an annual reconciliation of state 61998  
funds that have been deposited in the reserve balance account. The 61999  
rules may provide for the return of state funds to the appropriate 62000  
department account when the funds have been unexpended for a 62001  
period of two years. 62002

(F) A county board may use up to ten per cent of the amount 62003  
distributed to it under this section for the administrative costs 62004  
of developing, arranging, and contracting for supported living and 62005  
for costs of staff training and support. Annually, each county 62006  
board shall report to the department all revenue and expenditures 62007  
pertaining to supported living. The report shall be made in 62008  
conjunction with the annual report of expenditures submitted 62009  
pursuant to section 5126.12 of the Revised Code. The report shall 62010  
list the names of the individuals served, the total number of 62011  
individuals served on a monthly basis in the preceding calendar 62012  
year, the types of services provided, the total cost of the 62013  
services, and the sources of revenue used to cover the cost. 62014

**Sec. 5139.01.** (A) As used in this chapter: 62015

(1) "Commitment" means the transfer of the physical custody 62016  
of a child or youth from the court to the department of youth 62017  
services. 62018

(2) "Permanent commitment" means a commitment that vests 62019

legal custody of a child in the department of youth services. 62020

(3) "Legal custody," insofar as it pertains to the status 62021  
that is created when a child is permanently committed to the 62022  
department of youth services, means a legal status in which the 62023  
department has the following rights and responsibilities: the 62024  
right to have physical possession of the child; the right and duty 62025  
to train, protect, and control the child; the responsibility to 62026  
provide the child with food, clothing, shelter, education, and 62027  
medical care; and the right to determine where and with whom the 62028  
child shall live, subject to the minimum periods of, or periods 62029  
of, institutional care prescribed in sections 2152.13 to 2152.18 62030  
of the Revised Code; provided, that these rights and 62031  
responsibilities are exercised subject to the powers, rights, 62032  
duties, and responsibilities of the guardian of the person of the 62033  
child, and subject to any residual parental rights and 62034  
responsibilities. 62035

(4) Unless the context requires a different meaning, 62036  
"institution" means a state facility that is created by the 62037  
general assembly and that is under the management and control of 62038  
the department of youth services or a private entity with which 62039  
the department has contracted for the institutional care and 62040  
custody of felony delinquents. 62041

(5) "Full-time care" means care for twenty-four hours a day 62042  
for over a period of at least two consecutive weeks. 62043

(6) "Placement" means the conditional release of a child 62044  
under the terms and conditions that are specified by the 62045  
department of youth services. The department shall retain legal 62046  
custody of a child released pursuant to division (C) of section 62047  
2152.22 of the Revised Code or division (C) of section 5139.06 of 62048  
the Revised Code until the time that it discharges the child or 62049  
until the legal custody is terminated as otherwise provided by 62050  
law. 62051

(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 62082  
a community corrections facility, are adjudicated delinquent 62083  
children for having committed in that institution or community 62084  
corrections facility an act that if committed by an adult would be 62085  
a misdemeanor or a felony; 62086

(c) Children who satisfy all of the following: 62087

(i) They are at least ~~twelve~~ ten years of age but less than 62088  
eighteen years of age. 62089

(ii) They are adjudicated delinquent children for having 62090  
committed acts that if committed by an adult would be a felony. 62091

(iii) They are committed to the department of youth services 62092  
by the juvenile court of a county that has had one-tenth of one 62093  
per cent or less of the statewide adjudications for felony 62094  
delinquents as averaged for the past four fiscal years. 62095

(iv) They are in the care and custody of an institution or a 62096  
community corrections facility. 62097

(d) Felony delinquents who, while committed to the department 62098  
of youth services and in the care and custody of an institution, ~~7~~ 62099  
~~commit in that institution an act that if committed by an adult~~ 62100  
~~would be a felony, who~~ are serving disciplinary time for having 62101  
committed ~~that~~ an act described in division (A)(19)(a), (b), or 62102  
(c) of this section, and who have been institutionalized or 62103  
institutionalized in a secure facility for the minimum period of 62104  
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 62105  
the Revised Code. 62106

(e) Felony delinquents who are subject to and serving a 62107  
three-year period of commitment order imposed by a juvenile court 62108  
pursuant to divisions (A) and (B) of section 2152.17 of the 62109  
Revised Code for an act, other than a violation of section 2911.11 62110  
of the Revised Code, that would be a category one offense or 62111  
category two offense if committed by an adult. 62112

(f) Felony delinquents who are described in divisions 62113  
(A)(13)(a) to (e) of this section, who have been granted a 62114  
judicial release to court supervision under division (B) of 62115  
section 2152.22 of the Revised Code or a judicial release to the 62116  
department of youth services supervision under division (C) of 62117  
that section from the commitment to the department of youth 62118  
services for the act described in divisions (A)(13)(a) to (e) of 62119  
this section, who have violated the terms and conditions of that 62120  
release, and who, pursuant to an order of the court of the county 62121  
in which the particular felony delinquent was placed on release 62122  
that is issued pursuant to division (D) of section 2152.22 of the 62123  
Revised Code, have been returned to the department for 62124  
institutionalization or institutionalization in a secure facility. 62125

(g) Felony delinquents who have been committed to the custody 62126  
of the department of youth services, who have been granted 62127  
supervised release from the commitment pursuant to section 5139.51 62128  
of the Revised Code, who have violated the terms and conditions of 62129  
that supervised release, and who, pursuant to an order of the 62130  
court of the county in which the particular child was placed on 62131  
supervised release issued pursuant to division (F) of section 62132  
5139.52 of the Revised Code, have had the supervised release 62133  
revoked and have been returned to the department for 62134  
institutionalization. A felony delinquent described in this 62135  
division shall be a public safety bed only for the time during 62136  
which the felony delinquent is institutionalized as a result of 62137  
the revocation subsequent to the initial thirty-day period of 62138  
institutionalization required by division (F) of section 5139.52 62139  
of the Revised Code. 62140

~~(14) "State target youth" means twenty five per cent of the 62141  
projected total number of felony delinquents for each year of a 62142  
biennium, factoring in revocations and recommitments. 62143~~

~~(15)~~ Unless the context requires a different meaning, 62144

"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 62175  
misdemeanor; 62176

(c) An act that is not described in division (A)~~(19)~~(18)(a) 62177  
or (b) of this section and that violates an institutional rule of 62178  
conduct of the department. 62179

~~(20)~~(19) "Unruly child" has the same meaning as in section 62180  
2151.022 of the Revised Code. 62181

~~(21)~~(20) "Revocation" means the act of revoking a child's 62182  
supervised release for a violation of a term or condition of the 62183  
child's supervised release in accordance with section 5139.52 of 62184  
the Revised Code. 62185

~~(22)~~(21) "Release authority" means the release authority of 62186  
the department of youth services that is established by section 62187  
5139.50 of the Revised Code. 62188

~~(23)~~(22) "Supervised release" means the event of the release 62189  
of a child under this chapter from an institution and the period 62190  
after that release during which the child is supervised and 62191  
assisted by an employee of the department of youth services under 62192  
specific terms and conditions for reintegration of the child into 62193  
the community. 62194

~~(24)~~(23) "Victim" means the person identified in a police 62195  
report, complaint, or information as the victim of an act that 62196  
would have been a criminal offense if committed by an adult and 62197  
that provided the basis for adjudication proceedings resulting in 62198  
a child's commitment to the legal custody of the department of 62199  
youth services. 62200

~~(25)~~(24) "Victim's representative" means a member of the 62201  
victim's family or another person whom the victim or another 62202  
authorized person designates in writing, pursuant to section 62203  
5139.56 of the Revised Code, to represent the victim with respect 62204

to proceedings of the release authority of the department of youth 62205  
services and with respect to other matters specified in that 62206  
section. 62207

~~(26)~~(25) "Member of the victim's family" means a spouse, 62208  
child, stepchild, sibling, parent, stepparent, grandparent, other 62209  
relative, or legal guardian of a child but does not include a 62210  
person charged with, convicted of, or adjudicated a delinquent 62211  
child for committing a criminal or delinquent act against the 62212  
victim or another criminal or delinquent act arising out of the 62213  
same conduct, criminal or delinquent episode, or plan as the 62214  
criminal or delinquent act committed against the victim. 62215

~~(27)~~(26) "Judicial release to court supervision" means a 62216  
release of a child from institutional care or institutional care 62217  
in a secure facility that is granted by a court pursuant to 62218  
division (B) of section 2152.22 of the Revised Code during the 62219  
period specified in that division. 62220

~~(28)~~(27) "Judicial release to department of youth services 62221  
supervision" means a release of a child from institutional care or 62222  
institutional care in a secure facility that is granted by a court 62223  
pursuant to division (C) of section 2152.22 of the Revised Code 62224  
during the period specified in that division. 62225

~~(29)~~(28) "Juvenile justice system" includes all of the 62226  
functions of the juvenile courts, the department of youth 62227  
services, any public or private agency whose purposes include the 62228  
prevention of delinquency or the diversion, adjudication, 62229  
detention, or rehabilitation of delinquent children, and any of 62230  
the functions of the criminal justice system that are applicable 62231  
to children. 62232

~~(30)~~(29) "Metropolitan county criminal justice services 62233  
agency" means an agency that is established pursuant to division 62234  
(A) of section 181.54 of the Revised Code. 62235

~~(31)~~(30) "Administrative planning district" means a district 62236  
that is established pursuant to division (A) or (B) of section 62237  
181.56 of the Revised Code. 62238

~~(32)~~(31) "Criminal justice coordinating council" means a 62239  
criminal justice services agency that is established pursuant to 62240  
division (D) of section 181.56 of the Revised Code. 62241

~~(33)~~(32) "Comprehensive plan" means a document that 62242  
coordinates, evaluates, and otherwise assists, on an annual or 62243  
multi-year basis, all of the functions of the juvenile justice 62244  
systems of the state or a specified area of the state, that 62245  
conforms to the priorities of the state with respect to juvenile 62246  
justice systems, and that conforms with the requirements of all 62247  
federal criminal justice acts. These functions include, but are 62248  
not limited to, all of the following: 62249

(a) Delinquency; 62250

(b) Identification, detection, apprehension, and detention of 62251  
persons charged with delinquent acts; 62252

(c) Assistance to crime victims or witnesses, except that the 62253  
comprehensive plan does not include the functions of the attorney 62254  
general pursuant to sections 109.91 and 109.92 of the Revised 62255  
Code; 62256

(d) Adjudication or diversion of persons charged with 62257  
delinquent acts; 62258

(e) Custodial treatment of delinquent children; 62259

(f) Institutional and noninstitutional rehabilitation of 62260  
delinquent children. 62261

(B) There is hereby created the department of youth services. 62262  
The governor shall appoint the director of the department with the 62263  
advice and consent of the senate. The director shall hold office 62264  
during the term of the appointing governor but subject to removal 62265

at the pleasure of the governor. Except as otherwise authorized in 62266  
section 108.05 of the Revised Code, the director shall devote the 62267  
director's entire time to the duties of the director's office and 62268  
shall hold no other office or position of trust or profit during 62269  
the director's term of office. 62270

The director is the chief executive and administrative 62271  
officer of the department and has all the powers of a department 62272  
head set forth in Chapter 121. of the Revised Code. The director 62273  
may adopt rules for the government of the department, the conduct 62274  
of its officers and employees, the performance of its business, 62275  
and the custody, use, and preservation of the department's 62276  
records, papers, books, documents, and property. The director 62277  
shall be an appointing authority within the meaning of Chapter 62278  
124. of the Revised Code. Whenever this or any other chapter or 62279  
section of the Revised Code imposes a duty on or requires an 62280  
action of the department, the duty or action shall be performed by 62281  
the director or, upon the director's order, in the name of the 62282  
department. 62283

**Sec. 5139.04.** The department of youth services shall do all 62284  
of the following: 62285

(A) Support service districts through a central 62286  
administrative office that shall have as its administrative head a 62287  
deputy director who shall be appointed by the director of the 62288  
department. When a vacancy occurs in the office of that deputy 62289  
director, an assistant deputy director shall act as that deputy 62290  
director until the vacancy is filled. The position of deputy 62291  
director and assistant deputy director described in this division 62292  
shall be in the unclassified civil service of the state. 62293

(B) Receive custody of all children committed to it under 62294  
Chapter 2152. of the Revised Code, cause a study to be made of 62295  
those children, and issue any orders, as it considers best suited 62296

to the needs of any of those children and the interest of the public, for the treatment of each of those children;	62297 62298
(C) Obtain personnel necessary for the performance of its duties;	62299 62300
<del>(D) Train or provide for training of probation and youth correction workers;</del>	62301 62302
<del>(E)</del> Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to <del>5139.45</del> <u>5139.43</u> of the Revised Code, and that pertain to the administration of other sections of this chapter;	62303 62304 62305 62306
<del>(F)</del> <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;	62307 62308 62309
<del>(G)</del> <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;	62310 62311 62312
<del>(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.</del>	62313 62314 62315 62316 62317 62318
<del>(I)</del> <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;	62319 62320 62321 62322 62323
<del>(J)</del> <u>(H)</u> Do all other acts necessary or desirable to carry out this chapter.	62324 62325
<b>Sec. 5139.33.</b> (A) The department of youth services shall make	62326

grants in accordance with this section to encourage counties to 62327  
use community-based programs and services for juveniles who are 62328  
adjudicated delinquent children for the commission of acts that 62329  
would be felonies if committed by an adult. 62330

(B) Each county seeking a grant under this section shall file 62331  
an application with the department of youth services. The 62332  
application shall be filed at the time and in accordance with 62333  
procedures established by the department in rules adopted under 62334  
this section. Each application shall be accompanied by a plan 62335  
designed to reduce the county's commitment percentage, or to 62336  
enable it to maintain or attain a commitment percentage that is 62337  
equal to or below the statewide average commitment percentage. A 62338  
county's commitment percentage is the percentage determined by 62339  
dividing the number of juveniles the county committed to the 62340  
department during the year by the number of juveniles who were 62341  
eligible to be committed. The statewide average commitment 62342  
percentage is the percentage determined by dividing the number of 62343  
juveniles in the state committed to the department during the year 62344  
by the number of juveniles who were eligible to be committed. 62345  
These percentages shall be determined by the department using the 62346  
most reliable data available to it. 62347

Each plan shall include a method of ensuring equal access for 62348  
minority youth to the programs and services for which the grant 62349  
will be used. 62350

The department shall review each application and plan to 62351  
ensure that the requirements of this division are satisfied. Any 62352  
county applying for a grant under this section that received a 62353  
grant under this section during the preceding year and that failed 62354  
to meet its commitment goals for that year shall make the changes 62355  
in its plan that the department requires in order to continue to 62356  
be eligible for grants under this section. 62357

(C) Subject to division (E) of this section, the amounts 62358

appropriated for the purpose of making grants under this section 62359  
shall be distributed annually on a per capita basis among the 62360  
counties that have complied with division (B) of this section. 62361

(D) The department shall adopt rules to implement this 62362  
section. The rules shall include, but are not limited to, 62363  
procedures and schedules for submitting applications and plans 62364  
under this section, including procedures allowing joint-county 62365  
applications and plans; and procedures for monitoring and 62366  
evaluating the effectiveness of the programs and services financed 62367  
with grant money, the enhancement of the use of local facilities 62368  
and services, and the adequacy of the supervision and treatment 62369  
provided to juveniles by those programs and services. 62370

(E)(1) Three months prior to the implementation of the felony 62371  
delinquent care and custody program described in section 5139.43 62372  
of the Revised Code, each county that is entitled to a grant under 62373  
this section shall receive its grant money for the fiscal year or 62374  
the remainder of its grant money for the fiscal year, other than 62375  
any grant money to which it is entitled and that is set aside by 62376  
the department of youth services for purposes of division (E)(2) 62377  
of this section. The grant money so distributed shall be paid in a 62378  
lump sum. 62379

(2) During the first twelve months that the felony delinquent 62380  
care and custody program described in section 5139.43 of the 62381  
Revised Code is implemented in a county, any grant or the 62382  
remainder of any grant to which a county is entitled and that is 62383  
payable from the appropriation made to the department of youth 62384  
services for community sanctions shall be distributed as follows: 62385

(a) In the first quarter of the twelve-month period, the 62386  
county shall receive one hundred per cent of the quarterly 62387  
distribution. 62388

(b) In the second quarter of the twelve-month period, the 62389

county shall receive seventy-five per cent of the quarterly  
distribution. 62390  
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(c) In the third quarter of the twelve-month period, the 62392  
county shall receive fifty per cent of the quarterly distribution. 62393

(d) In the fourth quarter of the twelve-month period, the 62394  
county shall receive twenty-five per cent of the quarterly 62395  
distribution. 62396

(3) Grant moneys received pursuant to divisions (E)(1) and 62397  
(2) of this section shall be transmitted by the juvenile court of 62398  
the recipient county to the county treasurer, shall be deposited 62399  
by the county treasurer into the felony delinquent care and 62400  
custody fund created pursuant to division ~~(C)~~(B)(1) of section 62401  
5139.43 of the Revised Code, and shall be used by the juvenile 62402  
court in accordance with division ~~(C)~~(B)(2) of that section. The 62403  
grant moneys shall be in addition to, and shall not be used to 62404  
reduce, any usual annual increase in county funding that the 62405  
juvenile court is eligible to receive or the current level of 62406  
county funding of the juvenile court and of any programs or 62407  
services for delinquent children, unruly children, or juvenile 62408  
traffic offenders. 62409

(4) One year after the commencement of its operation of the 62410  
felony delinquent care and custody program described in section 62411  
5139.43 of the Revised Code, the department shall not make any 62412  
further grants under this section. 62413

**Sec. 5139.34.** (A) Funds may be appropriated to the department 62414  
of youth services for the purpose of granting state subsidies to 62415  
counties. A county or the juvenile court that serves a county 62416  
shall use state subsidies granted to the county pursuant to this 62417  
section only in accordance with divisions ~~(C)~~(B)(2)(a) and (3)(a) 62418  
of section 5139.43 of the Revised Code and the rules pertaining to 62419  
the state subsidy funds that the department adopts pursuant to 62420

division ~~(E)~~(D) of section 5139.04 of the Revised Code. The 62421  
department shall not grant financial assistance pursuant to this 62422  
section for the provision of care and services for children in a 62423  
~~foster care~~ placement facility unless the facility has been 62424  
certified, licensed, or approved by a state or national agency 62425  
with certification, licensure, or approval authority, including, 62426  
but not limited to, the department of job and family services, 62427  
department of education, department of mental health, ~~or~~ 62428  
department of mental retardation and developmental disabilities, 62429  
or American Correctional Association. For the purposes of this 62430  
section, ~~foster care~~ placement facilities do not include a state 62431  
institution or a county or district children's home. 62432

The department also shall not grant financial assistance 62433  
pursuant to this section for the provision of care and services 62434  
for children, including, but not limited to, care and services in 62435  
a detention facility, in another facility, or in out-of-home 62436  
placement, unless the minimum standards applicable to the care and 62437  
services that the department prescribes in rules adopted pursuant 62438  
to division ~~(E)~~(D) of section 5139.04 of the Revised Code have 62439  
been satisfied. 62440

(B) The department of youth services shall apply the 62441  
following formula to determine the amount of the annual grant that 62442  
each county is to receive pursuant to division (A) of this 62443  
section, subject to the appropriation for this purpose to the 62444  
department made by the general assembly: 62445

(1) Each county shall receive a basic annual grant of fifty 62446  
thousand dollars. 62447

(2) The sum of the basic annual grants provided under 62448  
division (B)(1) of this section shall be subtracted from the total 62449  
amount of funds appropriated to the department of youth services 62450  
for the purpose of making grants pursuant to division (A) of this 62451  
section to determine the remaining portion of the funds 62452

appropriated. The remaining portion of the funds appropriated 62453  
shall be distributed on a per capita basis to each county that has 62454  
a population of more than twenty-five thousand for that portion of 62455  
the population of the county that exceeds twenty-five thousand. 62456

(C)(1) Prior to a county's receipt of an annual grant 62457  
pursuant to this section, the juvenile court that serves the 62458  
county shall prepare, submit, and file in accordance with division 62459  
~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual 62460  
grant agreement and application for funding that is for the 62461  
combined purposes of, and that satisfies the requirements of, this 62462  
section and section 5139.43 of the Revised Code. In addition to 62463  
the subject matters described in division ~~(C)~~(B)(3)(a) of section 62464  
5139.43 of the Revised Code or in the rules that the department 62465  
adopts to implement that division, the annual grant agreement and 62466  
application for funding shall address fiscal accountability and 62467  
performance matters pertaining to the programs, care, and services 62468  
that are specified in the agreement and application and for which 62469  
state subsidy funds granted pursuant to this section will be used. 62470

(2) The county treasurer of each county that receives an 62471  
annual grant pursuant to this section shall deposit the state 62472  
subsidy funds so received into the county's felony delinquent care 62473  
and custody fund created pursuant to division ~~(C)~~(B)(1) of section 62474  
5139.43 of the Revised Code. Subject to exceptions prescribed in 62475  
section 5139.43 of the Revised Code that may apply to the 62476  
disbursement, the department shall disburse the state subsidy 62477  
funds to which ~~each county is entitled as follows:~~ 62478

~~(a) Except as provided in division (C)(2)(b) of this section,~~ 62479  
~~the department shall disburse the state subsidy funds to which a~~ 62480  
county is entitled in a lump sum payment that shall be made in 62481  
July of each calendar year. 62482

~~(b) In the case of state subsidy funds to which a county is~~ 62483  
~~entitled for fiscal year 1998, the department shall disburse the~~ 62484

~~state subsidy funds to the county in two distinct payments in 62485  
accordance with this division. The department shall disburse 62486  
seventy five per cent of those state subsidy funds to the county 62487  
in July 1997. After the department reviews and reconciles the 62488  
applicable reports that the juvenile court of the county is 62489  
required to prepare and submit to the department pursuant to 62490  
section 5139.43 of the Revised Code, the department shall disburse 62491  
to the county in October 1997, the remainder of the state subsidy 62492  
funds to which the county is entitled. 62493~~

(3) Upon an order of the juvenile court that serves a county 62494  
and subject to appropriation by the board of county commissioners 62495  
of that county, a county treasurer shall disburse from the 62496  
county's felony delinquent care and custody fund the state subsidy 62497  
funds granted to the county pursuant to this section for use only 62498  
in accordance with this section, the applicable provisions of 62499  
section 5139.43 of the Revised Code, and the county's approved 62500  
annual grant agreement and application for funding. 62501

(4) The moneys in a county's felony delinquent care and 62502  
custody fund that represent state subsidy funds granted pursuant 62503  
to this section are subject to appropriation by the board of 62504  
county commissioners of the county; shall be disbursed by the 62505  
county treasurer as required by division (C)(3) of this section; 62506  
shall be used in the manners referred to in division (C)(3) of 62507  
this section; shall not revert to the county general fund at the 62508  
end of any fiscal year; shall carry over in the felony delinquent 62509  
care and custody fund from the end of any fiscal year to the next 62510  
fiscal year; shall be in addition to, and shall not be used to 62511  
reduce, any usual annual increase in county funding that the 62512  
juvenile court is eligible to receive or the current level of 62513  
county funding of the juvenile court and of any programs, care, or 62514  
services for alleged or adjudicated delinquent children, unruly 62515  
children, or juvenile traffic offenders or for children who are at 62516

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. 62548  
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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. 62550  
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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: 62555  
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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; 62559  
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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; 62564  
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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: 62567  
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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; 62570  
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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. 62573  
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(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the 62576  
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Revised Code and demonstrate that felony delinquents served by the 62578  
facility have been or will be diverted from a commitment to the 62579  
department. 62580

(D) The department of youth services shall determine the 62581  
method of distribution of the funds appropriated for grants under 62582  
this section to community corrections facilities. 62583

~~(E) With the consent of a committing court and of a community 62584  
corrections facility that has received a grant under this section,  
the department of youth services may place in that facility a 62585  
felony delinquent who has been committed to the department. During 62586  
the period in which the felony delinquent is in that facility, the 62587  
felony delinquent~~ (1) The department of youth services shall adopt 62588  
rules in accordance with Chapter 119. of the Revised Code to 62589  
establish the minimum occupancy threshold of community corrections 62590  
facilities. 62591

(2) The department may make referrals for the placement of 62593  
children in its custody to a community corrections facility if the 62594  
community corrections facility is not meeting the minimum 62595  
occupancy threshold established by the department. At least 62596  
forty-five days prior to the referral of a child, the department 62597  
shall notify the committing court of its intent to place the child 62598  
in a community corrections facility. The court shall have thirty 62599  
days after the receipt of the notice to approve or disapprove the 62600  
placement. If the court does not respond to the notice of the 62601  
placement within that thirty-day period, the department shall 62602  
proceed with the placement and debit the county in accordance with 62603  
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 62604  
a community corrections facility pursuant to this division shall 62605  
remain in the legal custody of the department of youth services 62606  
during the period in which the child is in the community 62607  
corrections facility. 62608

(3) Counties that are not associated with a community 62609

corrections facility may refer children to a community corrections 62610  
facility with the consent of the facility. The department of youth 62611  
services shall debit the county that makes the referral in 62612  
accordance with sections 5139.41 to 5139.45 of the Revised Code. 62613

(F) If the board or other governing body of a community 62614  
corrections facility establishes an advisory board, the board or 62615  
other governing authority of the community corrections facility 62616  
shall reimburse the members of the advisory board for their actual 62617  
and necessary expenses incurred in the performance of their 62618  
official duties on the advisory board. The members of advisory 62619  
boards shall serve without compensation. 62620

**Sec. 5139.41.** ~~On and after January 1, 1995, the~~ The 62621  
appropriation made to the department of youth services for care 62622  
and custody of felony delinquents shall be expended in accordance 62623  
with ~~a formula~~ the following procedure that the department shall 62624  
~~develop~~ use for each year of a biennium. The ~~formula~~ procedure 62625  
shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of 62626  
the Revised Code and shall be developed in accordance with the 62627  
following guidelines: 62628

(A) ~~The department shall set aside at least three per cent~~ 62629  
~~but not more than five per cent of the appropriation for purposes~~ 62630  
~~of funding the contingency program described in section 5139.45 of~~ 62631  
~~the Revised Code and of use in accordance with that section.~~ 62632

~~(B)(1) After setting aside the amount described in division~~ 62633  
~~(A) of this section, the department shall set aside twenty five~~ 62634  
~~per cent of the remainder of the appropriation and use that amount~~ 62635  
~~for the purpose described in division (B)(2) of this section and~~ 62636  
~~to pay certain of the operational costs associated with, and to~~ 62637  
~~provide cash flow for, the following:~~ 62638

~~(a) Institutions;~~ 62639

~~(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:~~

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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.~~

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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.~~

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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.~~

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~~(D) After setting aside the amounts described in divisions~~

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~~(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, 62702  
and rehabilitation services and programs that are provided for 62703  
alleged or adjudicated unruly or delinquent children or for 62704  
children who are at risk of becoming unruly or delinquent 62705  
children; 62706

(4) Administrative expenses the department incurs in 62707  
connection with the felony delinquent care and custody programs 62708  
described in section 5139.43 of the Revised Code. 62709

(B) From the appropriated line item for the care and custody 62710  
of felony delinquents, the department, with the advice of the 62711  
RECLAIM advisory committee established under section 5139.44 of 62712  
the Revised Code, shall allocate annual operational funds for 62713  
county juvenile programs, institutional care and custody, 62714  
community corrections facilities care and custody, and 62715  
administrative expenses incurred by the department associated with 62716  
felony delinquent care and custody programs. The department, with 62717  
the advice of the RECLAIM advisory committee, shall adjust these 62718  
allocations, when modifications to this line item are made by 62719  
legislative or executive action. 62720

(C) The department shall divide county juvenile program 62721  
allocations among county juvenile courts that administer programs 62722  
and services for prevention, early intervention, diversion, 62723  
treatment, and rehabilitation that are provided for alleged or 62724  
adjudicated unruly or delinquent children or for children who are 62725  
at risk of becoming unruly or delinquent children. The department 62726  
shall base funding on the county's previous year's ratio of the 62727  
department's institutional and community correctional facilities 62728  
commitments to that county's four year average of felony 62729  
adjudications, divided by statewide ratios of commitments to 62730  
felony adjudications, as specified in the following formula: 62731

(1) The department shall give to each county a proportional 62732  
allocation of commitment credits. The proportional allocation of 62733

commitment credits shall be calculated by the following 62734  
procedures: 62735

(a) The department shall determine for each county and for 62736  
the state a four year average of felony adjudications. 62737

(b) The department shall determine for each county and for 62738  
the state the number of charged bed days, for both the department 62739  
and community correctional facilities, from the previous year. 62740

(c) The department shall divide the statewide total number of 62741  
charged bed days by the statewide total number of felony 62742  
adjudications, which quotient shall then be multiplied by a factor 62743  
determined by the department. 62744

(d) The department shall calculate the county's allocation of 62745  
credits by multiplying the number of adjudications for each court 62746  
by the result determined pursuant to division (C)(1)(c) of this 62747  
section. 62748

(2) The department shall subtract from the allocation 62749  
determined pursuant to division (C)(1) of this section a credit 62750  
for every chargeable bed day a youth stays in a department 62751  
institution and two-thirds of credit for every chargeable bed day 62752  
a youth stays in a community correctional facility. At the end of 62753  
the year, the department shall divide the amount of remaining 62754  
credits of that county's allocation by the total number of 62755  
remaining credits to all counties, to determine the county's 62756  
percentage, which shall then be applied to the total county 62757  
allocation to determine the county's payment for the fiscal year. 62758

(3) The department shall pay counties three times during the 62759  
fiscal year to allow for credit reporting and audit adjustments, 62760  
and modifications to the appropriated line item for the care and 62761  
custody of felony delinquents, as described in this section. The 62762  
department shall pay fifty per cent of the payment by the 62763  
fifteenth of July of each fiscal year, twenty-five per cent by the 62764

fifteenth of January of that fiscal year, and twenty-five per cent 62765  
of the payment by the fifteenth of June of that fiscal year. 62766

(D) In fiscal year 2004, the payment of county juvenile 62767  
programs shall be based on the following procedure: 62768

(1) The department shall divide the funding earned by each 62769  
court in fiscal year 2003 by the aggregate funding of all courts, 62770  
resulting in a percentage. 62771

(2) The department shall apply the percentage determined 62772  
under division (D)(1) of this section to the total county juvenile 62773  
program allocation for fiscal year 2004 to determine each court's 62774  
total payment. 62775

(3) The department shall make payments in accordance with the 62776  
schedule established in division (C)(3) of this section. 62777

**Sec. 5139.43.** (A) The department of youth services shall 62778  
operate a felony delinquent care and custody program ~~with the~~ 62779  
~~remainder of the appropriation described in division (E) of~~ 62780  
~~section 5139.41 of the Revised Code. The program that shall be~~ 62781  
operated in accordance with the formula developed pursuant to 62782  
~~sections~~ section 5139.41 and ~~5139.42~~ of the Revised Code, subject 62783  
to the conditions specified in this section, ~~and in conjunction~~ 62784  
~~with the contingency program described in section 5139.45 of the~~ 62785  
~~Revised Code.~~ 62786

(B)(1) ~~The department of youth services annually shall~~ 62787  
~~allocate to each county a portion of the remainder of the~~ 62788  
~~appropriation described in division (E) of section 5139.41 of the~~ 62789  
~~Revised Code. The portion to be allocated to each county shall be~~ 62790  
~~determined by multiplying the county's percentage determined under~~ 62791  
~~division (E) of section 5139.42 of the Revised Code by the amount~~ 62792  
~~of that remainder. The department shall divide the portion to be~~ 62793  
~~allocated to each county by twelve or, if in a particular fiscal~~ 62794

~~year the felony delinquent care and custody program is in effect 62795  
in a county less than twelve months, by the number of months the 62796  
program is in effect in that county to determine the monthly 62797  
allocation to that county. 62798~~

~~(2)(a) Except as provided in divisions (B)(2)(b) and (E) of 62799  
this section, the department shall reduce the monthly allocation 62800  
for each fiscal year to each county as determined under division 62801  
(B)(1) of this section by both of the following: 62802~~

~~(i) Seventy five per cent of the amount determined by 62803  
multiplying the per diem cost for the care and custody of felony 62804  
delinquents, as determined pursuant to division (D) of section 62805  
5139.42 of the Revised Code, by the number of felony delinquents 62806  
who have been adjudicated delinquent children and, except as 62807  
otherwise provided in divisions (B)(2)(a) and (3) of this section, 62808  
who are in the care and custody of an institution pursuant to a 62809  
commitment, recommitment, or revocation of a release by the 62810  
juvenile court of that county; 62811~~

~~(ii) Fifty per cent of the amount determined by multiplying 62812  
the per diem cost for the care and custody of felony delinquents, 62813  
as determined pursuant to division (D) of section 5139.42 of the 62814  
Revised Code, by the number of felony delinquents who have been 62815  
adjudicated delinquent children and, except as otherwise provided 62816  
in division (B)(3) of this section, who are in the care and 62817  
custody of a community corrections facility pursuant to a 62818  
placement by the department with the consent of the juvenile court 62819  
of that county as described in division (E) of section 5139.36 of 62820  
the Revised Code. 62821~~

~~Public safety beds shall not be included in the number of 62822  
felony delinquents who have been adjudicated delinquent children 62823  
by a juvenile court in making the seventy five per cent reduction 62824  
described in division (B)(2)(a)(i) of this section. The department 62825  
shall bear the care and custody costs associated with public 62826~~

~~safety beds.~~ 62827

~~(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.~~ 62828  
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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.~~ 62841  
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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~~ 62851  
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~~of each county for the month of June, as determined pursuant to 62859  
divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for 62860  
disbursement in the month of July of the next fiscal year in 62861  
accordance with division (B)(3)(b)(ii) of this section. If the 62862  
total of the seventy five per cent and fifty per cent reductions 62863  
described in division (B)(2)(a) of this section exceeds the 62864  
estimated monthly allocation of a county for the month of June as 62865  
so determined, the department may cover the amount of the excess 62866  
by debiting, in accordance with division (C)(2) of section 5139.45 62867  
of the Revised Code, the amount of the appropriation for care and 62868  
custody of felony delinquents that was set aside for the 62869  
contingency program pursuant to division (A) of section 5139.41 of 62870  
the Revised Code. 62871~~

~~(ii) In the month of July of each new fiscal year, the 62872  
department shall reconcile for each county the estimated 62873  
reductions that occurred pursuant to divisions (B)(2)(a) and 62874  
(3)(b)(i) of this section and the reductions that should have 62875  
occurred pursuant to division (B)(2)(a) of this section by using 62876  
the actual number of felony delinquents described in divisions 62877  
(B)(2)(a)(i) and (ii) of this section for the month of June of the 62878  
prior fiscal year. After that reconciliation occurs, subject to 62879  
divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, 62880  
the department shall disburse to each county the remainder of its 62881  
monthly allocation for the month of June of the prior fiscal year 62882  
as adjusted pursuant to the reconciliation and division 62883  
(B)(3)(b)(ii) of this section. 62884~~

~~In connection with the adjustments in the monthly allocations 62885  
for the month of June of the prior fiscal year, if the encumbered 62886  
monthly allocations of one or more counties for that month exceed 62887  
or are less than the monthly allocations for that month to which 62888  
those counties are entitled under divisions (B)(1) and (2)(a) of 62889  
this section by using the actual number of felony delinquents 62890~~

~~described in divisions (B)(2)(a)(i) and (ii) of this section 62891  
rather than the estimated number of those felony delinquents, the 62892  
department may make the necessary adjustments in the monthly 62893  
allocations of those counties for the month of June of the prior 62894  
fiscal year within the total of the moneys for monthly allocations 62895  
for that month that were encumbered for all of the counties. If 62896  
that total amount is insufficient to make the requisite monthly 62897  
allocations for that month to all counties in accordance with 62898  
divisions (B)(1) and (2)(a) of this section, the department shall 62899  
cover the insufficiency by debiting, in accordance with division 62900  
(C)(2) of section 5139.45 of the Revised Code, the amount of the 62901  
appropriation for care and custody of felony delinquents that was 62902  
set aside for the contingency program pursuant to division (A) of 62903  
section 5139.41 of the Revised Code. 62904~~

~~(4) Notwithstanding the general disbursement requirements of 62905  
division (B)(3)(a) and (b)(ii) of this section, if a juvenile 62906  
court fails to comply with division (C)(3)(d) of this section and 62907  
the department is not able to reconcile fiscal accounting as a 62908  
consequence of that failure, the department is not required to 62909  
make any disbursement in accordance with division (B)(3)(a) or 62910  
(b)(ii) of this section to the juvenile court until it complies 62911  
with division (C)(3)(d) of this section. 62912~~

~~(C)(1) Each juvenile court shall use the moneys disbursed to 62913  
it by the department of youth services pursuant to division (B) of 62914  
this section 5139.41 of the Revised Code in accordance with the 62915  
applicable provisions of division (C)(B)(2) of this section and 62916  
shall transmit the moneys to the county treasurer for deposit in 62917  
accordance with this division. The county treasurer shall create 62918  
in the county treasury a fund that shall be known as the felony 62919  
delinquent care and custody fund and shall deposit in that fund 62920  
the moneys disbursed to the juvenile court pursuant to division 62921  
(B) of ~~this~~ section 5139.41 of the Revised Code. The county 62922~~

treasurer also shall deposit into that fund the state subsidy 62923  
funds granted to the county pursuant to section 5139.34 of the 62924  
Revised Code. The moneys disbursed to the juvenile court pursuant 62925  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62926  
deposited pursuant to this division in the felony delinquent care 62927  
and custody fund shall not be commingled with any other county 62928  
funds except state subsidy funds granted to the county pursuant to 62929  
section 5139.34 of the Revised Code; shall not be used for any 62930  
capital construction projects; upon an order of the juvenile court 62931  
and subject to appropriation by the board of county commissioners, 62932  
shall be disbursed to the juvenile court for use in accordance 62933  
with the applicable provisions of division ~~(C)~~(B)(2) of this 62934  
section; shall not revert to the county general fund at the end of 62935  
any fiscal year; and shall carry over in the felony delinquent 62936  
care and custody fund from the end of any fiscal year to the next 62937  
fiscal year. The moneys disbursed to the juvenile court pursuant 62938  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62939  
deposited pursuant to this division in the felony delinquent care 62940  
and custody fund shall be in addition to, and shall not be used to 62941  
reduce, any usual annual increase in county funding that the 62942  
juvenile court is eligible to receive or the current level of 62943  
county funding of the juvenile court and of any programs or 62944  
services for delinquent children, unruly children, or juvenile 62945  
traffic offenders. 62946

(2)(a) A county and the juvenile court that serves the county 62947  
shall use the moneys in its felony delinquent care and custody 62948  
fund in accordance with rules that the department of youth 62949  
services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of 62950  
the Revised Code and as follows: 62951

(i) The moneys in the fund that represent state subsidy funds 62952  
granted to the county pursuant to section 5139.34 of the Revised 62953  
Code shall be used to aid in the support of prevention, early 62954

intervention, diversion, treatment, and rehabilitation programs 62955  
that are provided for alleged or adjudicated unruly children or 62956  
delinquent children or for children who are at risk of becoming 62957  
unruly children or delinquent children. The county shall not use 62958  
for capital improvements more than fifteen per cent of the moneys 62959  
in the fund that represent the applicable annual grant of those 62960  
state subsidy funds. 62961

(ii) The moneys in the fund that were disbursed to the 62962  
juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of 62963  
the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of 62964  
this section in the fund shall be used to provide programs and 62965  
services for the training, treatment, or rehabilitation of felony 62966  
delinquents that are alternatives to their commitment to the 62967  
department, including, but not limited to, community residential 62968  
programs, day treatment centers, services within the home, and 62969  
electronic monitoring, and shall be used in connection with 62970  
training, treatment, rehabilitation, early intervention, or other 62971  
programs or services for any delinquent child, unruly child, or 62972  
juvenile traffic offender who is under the jurisdiction of the 62973  
juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this~~ 62974  
~~section, a delinquent child includes a child who is so adjudicated~~ 62975  
~~for the commission of an act that if committed by an adult would~~ 62976  
~~be a misdemeanor or felony.~~ 62977

~~If, during the previous state fiscal year, the county did not~~ 62978  
~~exceed in any month its monthly allocation as determined pursuant~~ 62979  
~~to division (B)(1) of this section in connection with felony~~ 62980  
~~delinquents described in divisions (B)(2)(a)(i) and (ii) of this~~ 62981  
~~section, the moneys in the fund that were disbursed to the~~ 62982  
~~juvenile court pursuant to division (B) of this section and~~ 62983  
~~deposited pursuant to division (C)(1) of this section in the~~ The 62984  
fund also may be used for prevention, early intervention, 62985  
diversion, treatment, and rehabilitation programs that are 62986

provided for alleged or adjudicated unruly children, delinquent 62987  
children, or juvenile traffic offenders or for children who are at 62988  
risk of becoming unruly children, delinquent children, or juvenile 62989  
traffic offenders. Consistent with division ~~(C)~~(B)(1) of this 62990  
section, a county and the juvenile court of a county shall not use 62991  
any of those moneys for capital construction projects. 62992

(iii) The county and the juvenile court that serves the 62993  
county may not use moneys in the fund for the provision of care 62994  
and services for children, including, but not limited to, care and 62995  
services in a detention facility, in another facility, or in 62996  
out-of-home placement, unless the minimum standards that apply to 62997  
the care and services and that the department prescribes in rules 62998  
adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the 62999  
Revised Code have been satisfied. 63000

(b) Each juvenile court shall comply with division 63001  
~~(C)~~(B)(3)(d) of this section as implemented by the department. ~~If~~ 63002  
~~a juvenile court fails to comply with that division and the~~ 63003  
~~department is not able to reconcile fiscal accounting as a~~ 63004  
~~consequence of the failure, the provisions of division (B)(4) of~~ 63005  
~~this section shall apply.~~ 63006

(3) In accordance with rules adopted by the department 63007  
pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised 63008  
Code, each juvenile court and the county served by that juvenile 63009  
court shall do all of the following that apply: 63010

(a) The juvenile court shall prepare an annual grant 63011  
agreement and application for funding that satisfies the 63012  
requirements of this section and section 5139.34 of the Revised 63013  
Code and that pertains to the use, upon an order of the juvenile 63014  
court and subject to appropriation by the board of county 63015  
commissioners, of the moneys in its felony delinquent care and 63016  
custody fund for specified programs, care, and services as 63017  
described in division ~~(C)~~(B)(2)(a) of this section, shall submit 63018

that agreement and application to the county family and children 63019  
first council, the regional family and children first council, or 63020  
the local intersystem services to children cluster as described in 63021  
sections 121.37 and 121.38 of the Revised Code, whichever is 63022  
applicable, and shall file that agreement and application with the 63023  
department for its approval. The annual grant agreement and 63024  
application for funding shall include a method of ensuring equal 63025  
access for minority youth to the programs, care, and services 63026  
specified in it. 63027

The department may approve an annual grant agreement and 63028  
application for funding only if the juvenile court involved has 63029  
complied with the preparation, submission, and filing requirements 63030  
described in division ~~(C)~~(B)(3)(a) of this section. If the 63031  
juvenile court complies with those requirements and the department 63032  
approves that agreement and application, the juvenile court and 63033  
the county served by the juvenile court may expend the state 63034  
subsidy funds granted to the county pursuant to section 5139.34 of 63035  
the Revised Code only in accordance with division ~~(C)~~(B)(2)(a) of 63036  
this section, the rules pertaining to state subsidy funds that the 63037  
department adopts pursuant to division ~~(E)~~(D) of section 5139.04 63038  
of the Revised Code, and the approved agreement and application. 63039

(b) By the thirty-first day of August of each year, the 63040  
juvenile court shall file with the department a report that 63041  
contains all of the statistical and other information for each 63042  
month of the prior state fiscal year ~~that will permit the~~ 63043  
~~department to prepare the report described in division (D) of this~~ 63044  
~~section and the annual report described in division (H) of section~~ 63045  
~~5139.04 of the Revised Code.~~ If the juvenile court fails to file 63046  
the report required by division ~~(C)~~(B)(3)(b) of this section by 63047  
the thirty-first day of August of any year, the department shall 63048  
not disburse any payment of state subsidy funds to which the 63049  
county otherwise is entitled pursuant to section 5139.34 of the 63050

Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63051  
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63052  
Code the applicable ~~monthly~~ allocation of ~~the county~~ until the 63053  
juvenile court fully complies with division ~~(C)~~(B)(3)(b) of this 63054  
section. 63055

(c) If the department requires the juvenile court to prepare 63056  
monthly statistical reports ~~for use under section 5139.42 of the~~ 63057  
~~Revised Code~~ and to submit the reports on forms provided by the 63058  
department, the juvenile court shall file those reports with the 63059  
department on the forms so provided. If the juvenile court fails 63060  
to prepare and submit those monthly statistical reports within the 63061  
department's timelines, the department shall not disburse any 63062  
payment of state subsidy funds to which the county otherwise is 63063  
entitled pursuant to section 5139.34 of the Revised Code and shall 63064  
not disburse pursuant to division (B)~~(3)(a)~~ ~~or (b)(ii)~~ of ~~this~~ 63065  
~~section the remainder of 5139.41 of the Revised Code~~ the 63066  
applicable ~~monthly~~ allocation of ~~the county~~ until the juvenile 63067  
court fully complies with division ~~(C)~~(B)(3)(c) of this section. 63068  
If the juvenile court fails to prepare and submit those monthly 63069  
statistical reports within one hundred eighty days of the date the 63070  
department establishes for their submission, the department shall 63071  
not disburse any payment of state subsidy funds to which the 63072  
county otherwise is entitled pursuant to section 5139.34 of the 63073  
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63074  
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63075  
Code the applicable ~~monthly~~ allocation of ~~the county~~, and the 63076  
state subsidy funds and the remainder of the applicable ~~monthly~~ 63077  
allocation shall revert to the department. If a juvenile court 63078  
states in a monthly statistical report that the juvenile court 63079  
adjudicated within a state fiscal year five hundred or more 63080  
children to be delinquent children for committing acts that would 63081  
be felonies if committed by adults and if the department 63082  
determines that the data in the report may be inaccurate, the 63083

juvenile court shall have an independent auditor or other 63084  
qualified entity certify the accuracy of the data on a date 63085  
determined by the department. 63086

(d) If the department requires the juvenile court and the 63087  
county to participate in a fiscal monitoring program or another 63088  
monitoring program that is conducted by the department to ensure 63089  
compliance by the juvenile court and the county with division 63090  
~~(C)~~(B) of this section, the juvenile court and the county shall 63091  
participate in the program and fully comply with any guidelines 63092  
for the performance of audits adopted by the department pursuant 63093  
to that program and all requests made by the department pursuant 63094  
to that program for information necessary to reconcile fiscal 63095  
accounting. If an audit that is performed pursuant to a fiscal 63096  
monitoring program or another monitoring program described in this 63097  
division determines that the juvenile court or the county used 63098  
moneys in the county's felony delinquent care and custody fund for 63099  
expenses that are not authorized under division ~~(C)~~(B) of this 63100  
section, within forty-five days after the department notifies the 63101  
county of the unauthorized expenditures, the county either shall 63102  
repay the amount of the unauthorized expenditures from the county 63103  
general revenue fund to the state's general revenue fund or shall 63104  
file a written appeal with the department. If an appeal is timely 63105  
filed, the director of the department shall render a decision on 63106  
the appeal and shall notify the appellant county or its juvenile 63107  
court of that decision within forty-five days after the date that 63108  
the appeal is filed. If the director denies an appeal, the 63109  
county's fiscal agent shall repay the amount of the unauthorized 63110  
expenditures from the county general revenue fund to the state's 63111  
general revenue fund within thirty days after receiving the 63112  
director's notification of the appeal decision. If the county 63113  
fails to make the repayment within that thirty-day period and if 63114  
the unauthorized expenditures pertain to moneys allocated under 63115  
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the 63116

department shall deduct the amount of the unauthorized 63117  
expenditures from the next ~~monthly~~ allocation of those moneys to 63118  
the county in accordance with this section or from the allocations 63119  
that otherwise would be made under those sections to the county 63120  
during the next state fiscal year in accordance with this section 63121  
and shall return that deducted amount to the state's general 63122  
revenue fund. If the county fails to make the repayment within 63123  
that thirty-day period and if the unauthorized expenditures 63124  
pertain to moneys granted pursuant to section 5139.34 of the 63125  
Revised Code, the department shall deduct the amount of the 63126  
unauthorized expenditures from the next annual grant to the county 63127  
pursuant to that section and shall return ~~than~~ that deducted 63128  
amount to the state's general revenue fund. 63129

~~(D) On or prior to the first day of December of each year,~~ 63130  
~~the department of youth services shall submit to the joint~~ 63131  
~~legislative committee on juvenile corrections overcrowding a~~ 63132  
~~report that pertains to the operation of sections 5139.34 and~~ 63133  
~~5139.41 to 5139.45 of the Revised Code during the immediately~~ 63134  
~~preceding state fiscal year and that includes, but is not limited~~ 63135  
~~to, the following:~~ 63136

~~(1) A description of the programs, care, and services that~~ 63137  
~~were financed under those sections in each county;~~ 63138

~~(2) The number of felony delinquents, other delinquent~~ 63139  
~~children, unruly children, and juvenile traffic offenders served~~ 63140  
~~by the programs, care, and services in each county;~~ 63141

~~(3) The total number of children adjudicated in each juvenile~~ 63142  
~~court as felony delinquents;~~ 63143

~~(4) The total number of felony delinquents who were committed~~ 63144  
~~by the juvenile court of each county to the department and who~~ 63145  
~~were in the care and custody of an institution or a community~~ 63146  
~~corrections facility;~~ 63147

~~(5) A breakdown of the felony delinquents described in~~ 63148  
~~division (D)(4) of this section on the basis of the types and~~ 63149  
~~degrees of felonies committed, the ages of the felony delinquents~~ 63150  
~~at the time they committed the felonies, and the sex and race of~~ 63151  
~~the felony delinquents.~~ 63152

~~(E)(C)~~ The determination of which county a reduction of the 63153  
~~monthly~~ care and custody allocation will be charged against for a 63154  
particular youth shall be made as outlined below for all youths 63155  
who do not qualify as public safety beds. The determination of 63156  
which county a reduction of the ~~monthly~~ care and custody 63157  
allocation will be charged against shall be made as follows until 63158  
each youth is released: 63159

(1) In the event of a commitment, the reduction shall be 63160  
charged against the committing county. 63161

(2) In the event of a recommitment, the reduction shall be 63162  
charged against the original committing county until the 63163  
expiration of the minimum period of institutionalization under the 63164  
original order of commitment or until the date on which the youth 63165  
is admitted to the department of youth services pursuant to the 63166  
order of recommitment, whichever is later. Reductions of the 63167  
~~monthly~~ allocation shall be charged against the county that 63168  
recommitted the youth after the minimum expiration date of the 63169  
original commitment. 63170

(3) In the event of a revocation of a release on parole, the 63171  
reduction shall be charged against the county that revokes the 63172  
youth's parole. 63173

(D) A juvenile court is not precluded by its allocation 63174  
amount for the care and custody of felony delinquents from 63175  
committing a felony delinquent to the department of youth services 63176  
for care and custody in an institution or a community corrections 63177  
facility when the juvenile court determines that the commitment is 63178

appropriate. 63179

Sec. 5139.44. (A)(1) There is hereby created the RECLAIM advisory committee that shall be composed of the following ten members: 63180  
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(a) Two members shall be juvenile court judges appointed by the Ohio association of juvenile and family court judges. 63183  
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(b) One member shall be the director of youth services or the director's designee. 63185  
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(c) One member shall be the director of budget and management or the director's designee. 63187  
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(d) One member shall be the director of the legislative service commission or the director's designee. 63189  
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(e) One member shall be a member of a senate committee dealing with finance or criminal justice issues appointed by the president of the senate. 63191  
63192  
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(f) One member shall be a member of a committee of the house of representatives dealing with finance or criminal justice issues appointed by the speaker of the house of representatives. 63194  
63195  
63196

(g) One member shall be a member of a board of county commissioners appointed by the county commissioners association of Ohio. 63197  
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63199

(h) Two members shall be juvenile court administrators appointed by the Ohio association of juvenile and family court judges. 63200  
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63202

(2) The members of the committee shall be appointed or designated within thirty days after the effective date of this section, and the director of youth services shall be notified of the names of the members. 63203  
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(3) Members described in divisions (A)(1)(a), (g), and (h) of 63207

this section shall serve for terms of two years and shall hold 63208  
office from the date of the member's appointment until the end of 63209  
the term for which the member was appointed. Members described in 63210  
divisions (A)(1)(b), (c), and (d) of this section shall serve as 63211  
long as they hold the office described in that division. Members 63212  
described in divisions (A)(1)(e) and (f) of this section shall 63213  
serve for the duration of the session of the general assembly 63214  
during which they were appointed, provided they continue to hold 63215  
the office described in that division. The members described in 63216  
divisions (A)(1)(a), (e), (f), (g), and (h) may be reappointed. 63217  
Vacancies shall be filled in the manner provided for original 63218  
appointments. Any member appointed to fill a vacancy occurring 63219  
prior to the expiration date of the term for which the member's 63220  
predecessor was appointed shall hold office as a member for the 63221  
remainder of that term. A member shall continue in office 63222  
subsequent to the expiration date of the member's term until the 63223  
member's successor takes office or until a period of sixty days 63224  
has elapsed, whichever occurs first. 63225

(4) Membership on the committee does not constitute the 63226  
holding of an incompatible public office or employment in 63227  
violation of any statutory or common law prohibition pertaining to 63228  
the simultaneous holding of more than one public office or 63229  
employment. Members of the committee are not disqualified from 63230  
holding by reason of that membership and do not forfeit because of 63231  
that membership their public office or employment that qualifies 63232  
them for membership on the committee notwithstanding any contrary 63233  
disqualification or forfeiture requirement under existing Revised 63234  
Code sections. 63235

(B) The director of youth services shall serve as an interim 63236  
chair of the RECLAIM advisory committee until the first meeting of 63237  
the committee. Upon receipt of the names of the members of the 63238  
committee, the director shall schedule the initial meeting of the 63239

committee that shall take place at an appropriate location in 63240  
Columbus and occur not later than sixty days after the effective 63241  
date of this section. The director shall notify the members of the 63242  
committee of the time, date, and place of the meeting. At the 63243  
initial meeting, the committee shall organize itself by selecting 63244  
from among its members a chair, vice-chair, and secretary. The 63245  
committee shall meet at least once each quarter of the calendar 63246  
year but may meet more frequently at the call of the chair. 63247

(C) In addition to its functions with respect to the RECLAIM 63248  
program described in section 5139.41 of the Revised Code, the 63249  
RECLAIM advisory committee periodically shall do all of the 63250  
following: 63251

(1) Evaluate the operation of the RECLAIM program by the 63252  
department of youth services, evaluate the implementation of the 63253  
RECLAIM program by the counties, and evaluate the efficiency of 63254  
the formula described in section 5139.41 of the Revised Code. In 63255  
conducting these evaluations, the committee shall consider the 63256  
public policy that RECLAIM funds are to be expended to provide the 63257  
most appropriate programs and services for felony delinquents and 63258  
other youthful offenders. 63259

(2) Advise the department of youth services, the office of 63260  
budget and management, and the general assembly on the following 63261  
changes that the committee believes should be made: 63262

(a) Changes to sections of the Revised Code that pertain to 63263  
the RECLAIM program, specifically the formula specified in section 63264  
5139.41 of the Revised Code; 63265

(b) Changes in the funding level for the RECLAIM program, 63266  
specifically the amounts distributed under the formula for county 63267  
allocations, community correctional facilities, and juvenile 63268  
correctional facility budgets. 63269

Sec. 5139.87. (A) The department of youth services shall 63270  
serve as the state agent for the administration of all federal 63271  
juvenile justice grants awarded to the state. 63272

(B) There are hereby created in the state treasury the 63273  
federal juvenile justice programs funds. A separate fund shall be 63274  
established each federal fiscal year. All federal grants and other 63275  
moneys received for federal juvenile programs shall be deposited 63276  
into the funds. All receipts deposited into the funds shall be 63277  
used for federal juvenile programs. All investment earnings on the 63278  
cash balance in a federal juvenile program fund shall be credited 63279  
to that fund for the appropriate federal fiscal year. 63280

(C) All rules, orders, and determinations of the office of 63281  
criminal justice services regarding the administration of federal 63282  
juvenile justice grants that are in effect on the effective date 63283  
of this amendment shall continue in effect as rules, orders, and 63284  
determinations of the department of youth services. 63285

**Sec. 5153.122.** (A) Each caseworker hired by a public children 63286  
services agency shall complete at least ninety hours of in-service 63287  
training during the first year of the caseworker's continuous 63288  
employment, except that the director of the public children 63289  
services agency may waive the training requirement for a school of 63290  
social work graduate who participated in the university 63291  
partnership program described in division (D) of section 5101.141 63292  
of the Revised Code. The training shall consist of courses in 63293  
recognizing and preventing child abuse and neglect, assessing 63294  
risks, interviewing persons, investigating cases, intervening, 63295  
providing services to children and their families, and other 63296  
topics relevant to child abuse and neglect. After the first year 63297  
of continuous employment, each caseworker annually shall complete 63298  
thirty-six hours of training in areas relevant to the caseworker's 63299

assigned duties. 63300

(B) Each supervisor hired by a public children services 63301  
agency shall complete at least sixty hours of in-service training 63302  
during the first year of the supervisor's continuous employment in 63303  
that position. After the first year of continuous employment as a 63304  
supervisor, the supervisor annually shall complete thirty hours of 63305  
training in areas relevant to the supervisor's assigned duties. 63306

**Sec. 5153.16.** (A) Except as provided in section 2151.422 of 63307  
the Revised Code, in accordance with rules of the department of 63308  
job and family services, and on behalf of children in the county 63309  
whom the public children services agency considers to be in need 63310  
of public care or protective services, the public children 63311  
services agency shall do all of the following: 63312

(1) Make an investigation concerning any child alleged to be 63313  
an abused, neglected, or dependent child; 63314

(2) Enter into agreements with the parent, guardian, or other 63315  
person having legal custody of any child, or with the department 63316  
of job and family services, department of mental health, 63317  
department of mental retardation and developmental disabilities, 63318  
other department, any certified organization within or outside the 63319  
county, or any agency or institution outside the state, having 63320  
legal custody of any child, with respect to the custody, care, or 63321  
placement of any child, or with respect to any matter, in the 63322  
interests of the child, provided the permanent custody of a child 63323  
shall not be transferred by a parent to the public children 63324  
services agency without the consent of the juvenile court; 63325

(3) Accept custody of children committed to the public 63326  
children services agency by a court exercising juvenile 63327  
jurisdiction; 63328

(4) Provide such care as the public children services agency 63329

considers to be in the best interests of any child adjudicated to 63330  
be an abused, neglected, or dependent child the agency finds to be 63331  
in need of public care or service; 63332

(5) Provide social services to any unmarried girl adjudicated 63333  
to be an abused, neglected, or dependent child who is pregnant 63334  
with or has been delivered of a child; 63335

(6) Make available to the bureau for children with medical 63336  
handicaps of the department of health at its request any 63337  
information concerning a crippled child found to be in need of 63338  
treatment under sections 3701.021 to 3701.028 of the Revised Code 63339  
who is receiving services from the public children services 63340  
agency; 63341

(7) Provide temporary emergency care for any child considered 63342  
by the public children services agency to be in need of such care, 63343  
without agreement or commitment; 63344

(8) Find certified foster homes, within or outside the 63345  
county, for the care of children, including handicapped children 63346  
from other counties attending special schools in the county; 63347

(9) Subject to the approval of the board of county 63348  
commissioners and the state department of job and family services, 63349  
establish and operate a training school or enter into an agreement 63350  
with any municipal corporation or other political subdivision of 63351  
the county respecting the operation, acquisition, or maintenance 63352  
of any children's home, training school, or other institution for 63353  
the care of children maintained by such municipal corporation or 63354  
political subdivision; 63355

(10) Acquire and operate a county children's home, establish, 63356  
maintain, and operate a receiving home for the temporary care of 63357  
children, or procure certified foster homes for this purpose; 63358

(11) Enter into an agreement with the trustees of any 63359  
district children's home, respecting the operation of the district 63360

children's home in cooperation with the other county boards in the 63361  
district; 63362

(12) Cooperate with, make its services available to, and act 63363  
as the agent of persons, courts, the department of job and family 63364  
services, the department of health, and other organizations within 63365  
and outside the state, in matters relating to the welfare of 63366  
children, except that the public children services agency shall 63367  
not be required to provide supervision of or other services 63368  
related to the exercise of parenting time rights granted pursuant 63369  
to section 3109.051 or 3109.12 of the Revised Code or 63370  
companionship or visitation rights granted pursuant to section 63371  
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 63372  
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 63373  
a common pleas court, pursuant to division (E)(6) of section 63374  
3113.31 of the Revised Code, requires the provision of supervision 63375  
or other services related to the exercise of the parenting time 63376  
rights or companionship or visitation rights; 63377

(13) Make investigations at the request of any superintendent 63378  
of schools in the county or the principal of any school concerning 63379  
the application of any child adjudicated to be an abused, 63380  
neglected, or dependent child for release from school, where such 63381  
service is not provided through a school attendance department; 63382

(14) Administer funds provided under Title IV-E of the 63383  
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 63384  
amended, in accordance with rules adopted under section 5101.141 63385  
of the Revised Code; 63386

(15) In addition to administering Title IV-E adoption 63387  
assistance funds, enter into agreements to make adoption 63388  
assistance payments under section 5153.163 of the Revised Code; 63389

(16) Implement a system of risk assessment, in accordance 63390  
with rules adopted by the director of job and family services, to 63391

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 63423  
(F)(1) of section 2151.421 of the Revised Code and may use the 63424  
system at any other time the agency is involved with any child 63425  
when the agency determines that risk assessment is necessary. 63426

(C) Except as provided in section 2151.422 of the Revised 63427  
Code, in accordance with rules of the director of job and family 63428  
services, and on behalf of children in the county whom the public 63429  
children services agency considers to be in need of public care or 63430  
protective services, the public children services agency may do 63431  
the following: 63432

(1) Provide or find, with other child serving systems, 63433  
specialized foster care for the care of children in a specialized 63434  
foster home, as defined in section 5103.02 of the Revised Code, 63435  
certified under section 5103.03 of the Revised Code; 63436

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 63437  
this section, contract with the following for the purpose of 63438  
assisting the agency with its duties: 63439

(i) County departments of job and family services; 63440

(ii) Boards of alcohol, drug addiction, and mental health 63441  
services; 63442

(iii) County boards of mental retardation and developmental 63443  
disabilities; 63444

(iv) Regional councils of political subdivisions established 63445  
under Chapter 167. of the Revised Code; 63446

(v) Private and government providers of services; 63447

(vi) Managed care organizations and prepaid health plans. 63448

(b) A public children services agency contract under division 63449  
(C)(2)(a) of this section regarding the agency's duties under 63450  
section 2151.421 of the Revised Code may not provide for the 63451  
entity under contract with the agency to perform any service not 63452

authorized by the department's rules. 63453

(c) Only a county children services board appointed under 63454  
section 5153.03 of the Revised Code that is a public children 63455  
services agency may contract under division (C)(2)(a) of this 63456  
section. If an entity specified in division (B) or (C) of section 63457  
5153.02 of the Revised Code is the public children services agency 63458  
for a county, the board of county commissioners may enter into 63459  
contracts pursuant to section 307.982 of the Revised Code 63460  
regarding the agency's duties. 63461

**Sec. 5153.163.** (A) As used in this section, "adoptive parent" 63462  
means, as the context requires, a prospective adoptive parent or 63463  
an adoptive parent. 63464

(B)(1) ~~If Before a child's adoption is finalized, a public 63465  
children services agency considers a child with special needs 63466  
residing in the county served by the agency to be in need of 63467  
public care or protective services and all of the following apply, 63468  
the agency shall enter into an agreement with the child's adoptive 63469  
parent before the child is adopted under which the agency shall 63470  
make state adoption maintenance subsidy payments as needed on 63471  
behalf of the child when all of the following apply: 63472~~

(a) The child is a child with special needs. 63473

(b) The child was placed in the adoptive home by a public 63474  
children services agency or a private child placing agency and may 63475  
legally be adopted. 63476

(c) The adoptive parent has the capability of providing the 63477  
permanent family relationships needed by the child in all areas 63478  
except financial need as determined by the agency;. 63479

~~(b)(d) The needs of the child are beyond the economic 63480  
resources of the adoptive parent as determined by the agency;.~~ 63481

~~(c) The agency determines the acceptance~~ (e) Acceptance of 63482

the child as a member of the adoptive parent's family would not be 63483  
in the child's best interest without payments on the child's 63484  
behalf under this section. 63485

~~(2) Payments to an adoptive parent under division (B) of this 63486  
section shall include medical, surgical, psychiatric, 63487  
psychological, and counseling expenses, and may include 63488  
maintenance costs if necessary and other costs incidental to the 63489  
care of the child. No payment of maintenance costs shall be made 63490  
under division (B) of this section on behalf of a child if either 63491  
of the following apply: 63492~~

~~(a)(f) The gross income of the adoptive parent's family 63493  
exceeds does not exceed one hundred twenty per cent of the median 63494  
income of a family of the same size, including the child, as most 63495  
recently determined for this state by the secretary of health and 63496  
human services under Title XX of the "Social Security Act," 88 63497  
Stat. 2337, 42 U.S.C.A. 1397, as amended. 63498~~

~~(b)(g) The child is not eligible for adoption assistance 63499  
payments ~~for maintenance costs~~ under Title IV-E of the "Social 63500  
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 63501~~

(2) State adoption maintenance subsidy payment agreements 63502  
must be made by either the public children services agency that 63503  
has permanent custody of the child or the public children services 63504  
agency of the county in which the private child placing agency 63505  
that has permanent custody of the child is located. 63506

(3) State adoption maintenance subsidy payments shall be made 63507  
in accordance with the agreement between the public children 63508  
services agency and the adoptive parent and are subject to an 63509  
annual redetermination of need. 63510

(4) Payments under this division ~~(B) of this section~~ may 63511  
begin either before or after issuance of the final adoption 63512  
decree, except that payments made before issuance of the final 63513

adoption decree may be made only while the child is living in the 63514  
adoptive parent's home. Preadoption payments may be made for not 63515  
more than twelve months, unless the final adoption decree is not 63516  
issued within that time because of a delay in court proceedings. 63517  
Payments that begin before issuance of the final adoption decree 63518  
may continue after its issuance. 63519

(C)(1) If, after the child's adoption is finalized, a public 63520  
children services agency considers a child residing in the county 63521  
served by the agency to be in need of public care or protective 63522  
services ~~and both of the following apply,~~ the agency may, ~~and~~ to 63523  
the extent state funds are appropriated for this purpose ~~shall,~~ 63524  
enter into an agreement with the child's adoptive parent ~~after the~~ 63525  
~~child is adopted~~ under which the agency shall make post adoption 63526  
special services subsidy payments on behalf of the child as needed 63527  
when both of the following apply: 63528

~~(1)~~(a) The child has a physical or developmental handicap or 63529  
mental or emotional condition that either: 63530

~~(a)~~(i) Existed before the adoption petition was filed; or 63531

~~(b)~~(ii) Developed after the adoption petition was filed and 63532  
can be directly attributed to factors in the child's preadoption 63533  
background, medical history, or biological family's background or 63534  
medical history. 63535

~~(2)~~(b) The agency determines the expenses necessitated by the 63536  
child's handicap or condition are beyond the adoptive parent's 63537  
economic resources. 63538

~~Payments to an adoptive parent~~ (2) Services for which a 63539  
public children services agency may make post adoption special 63540  
services subsidy payments on behalf of a child under this division 63541  
shall include medical, surgical, psychiatric, psychological, and 63542  
counseling ~~expenses~~ services, including residential treatment. 63543

(3) The department of job and family services shall establish 63544

clinical standards to evaluate a child's physical or developmental 63545  
handicap or mental or emotional condition and assess the child's 63546  
need for services. 63547

(4) The total dollar value of post adoption special services 63548  
subsidy payments made on a child's behalf shall not exceed ten 63549  
thousand dollars in any fiscal year, unless the department 63550  
determines that extraordinary circumstances exist that necessitate 63551  
further funding of services for the child. Under such 63552  
extraordinary circumstances, the value of the payments made on the 63553  
child's behalf shall not exceed fifteen thousand dollars in any 63554  
fiscal year. 63555

(5) The adoptive parent or parents of a child who receives 63556  
post adoption special services subsidy payments shall pay at least 63557  
five per cent of the total cost of all services provided to the 63558  
child; except that a public children services agency may waive 63559  
this requirement if the gross annual income of the child's 63560  
adoptive family is not more than two hundred per cent of the 63561  
federal poverty guideline. 63562

(6) A public children services agency may use other sources 63563  
of revenue to make post adoption special services subsidy 63564  
payments, in addition to any state funds appropriated for that 63565  
purpose. 63566

(D) No payment shall be made under division (B) or (C) of 63567  
this section on behalf of any person eighteen years of age or 63568  
older beyond the end of the school year during which the person 63569  
attains the age of eighteen or on behalf of a mentally or 63570  
physically handicapped person twenty-one years of age or older. 63571  
~~Payments under those divisions shall be made in accordance with~~ 63572  
~~the terms of the agreement between the public children services~~ 63573  
~~agency and the adoptive parent, subject to an annual~~ 63574  
~~redetermination of need. The agency may use sources of funding in~~ 63575  
~~addition to any state funds appropriated for the purposes of those~~ 63576

~~divisions.~~ 63577

(E) The director of job and family services shall adopt rules 63578  
in accordance with Chapter 119. of the Revised Code that are 63579  
needed to implement this section. The rules shall establish all of 63580  
the following: 63581

(1) The application process for ~~payments~~ all forms of 63582  
assistance provided under this section; 63583

(2) The method to determine the ~~amounts and kinds~~ amount of 63584  
assistance payable under division (B) of this section; 63585

(3) The definition of "child with special needs" for this 63586  
section; 63587

(4) The process whereby a child's continuing need for 63588  
services provided under division (B) of this section is annually 63589  
redetermined; 63590

(5) The method of determining the amount, duration, and scope 63591  
of services provided to a child under division (C) of this 63592  
section; 63593

(6) Any other rule, requirement, or procedure the department 63594  
considers appropriate for the implementation of this section. 63595

~~The rules shall allow for payments for children placed by~~ 63596  
~~nonpublic agencies.~~ 63597

~~(E)~~(F) The state adoption special services subsidy program 63598  
ceases to exist on July 1, 2004, except that, subject to the 63599  
findings of the annual redetermination process established under 63600  
division (E) of this section and the child's individual need for 63601  
services, a public children services agency may continue to 63602  
provide state adoption special services subsidy payments on behalf 63603  
of a child for whom payments were being made prior to July 1, 63604  
2004. 63605

(G) No public children services agency shall, pursuant to 63606

either section 2151.353 or 5103.15 of the Revised Code, place or 63607  
maintain a child with special needs who is in the permanent 63608  
custody of an institution or association certified by the 63609  
department of job and family services under section 5103.03 of the 63610  
Revised Code in a setting other than with a person seeking to 63611  
adopt the child, unless the agency has determined and redetermined 63612  
at intervals of not more than six months the impossibility of 63613  
adoption by a person listed pursuant to division (B), (C), or (D) 63614  
of section 5103.154 of the Revised Code, including the 63615  
impossibility of entering into a payment agreement with such a 63616  
person. The agency so maintaining such a child shall report its 63617  
reasons for doing so to the department of job and family services. 63618  
~~No agency that fails to so determine, redetermine, and report 63619~~  
~~shall receive more than fifty per cent of the state funds to which 63620~~  
~~it would otherwise be eligible for that part of the fiscal year 63621~~  
~~following placement under section 5101.14 of the Revised Code. 63622~~

The department may take any action permitted under section 63623  
5101.24 of the Revised Code for an agency's failure to determine, 63624  
redetermine, and report on a child's status. 63625

**Sec. 5153.60.** (A) The department of job and family services 63626  
shall establish a statewide program that provides ~~the~~ all of the 63627  
following: 63628

(1) The training section 5153.122 of the Revised Code 63629  
requires public children services agency caseworkers and 63630  
supervisors to complete. ~~The program may also provide the;~~ 63631

(2) The preplacement and continuing training described in 63632  
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 63633  
Revised Code that foster caregivers are required by sections 63634  
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain- 63635  
The; 63636

(3) The education programs for adoption assessors required by 63637

section 3107.014 of the Revised Code. 63638

(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. 63639  
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(C) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program." 63645  
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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: 63647  
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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; 63650  
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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. 63654  
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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 63662  
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job and family services, on the recommendation of the training 63668  
program steering committee, may direct a public children services 63669  
agency to establish and maintain a training center to replace the 63670  
center established by an agency under this section. There may be 63671  
no more and no less than eight centers in existence at any time. 63672  
The department may make a grant to a public children services 63673  
agency that establishes and maintains a regional training center 63674  
under this section for the purpose of wholly or partially 63675  
subsidizing the operation of the center. 63676

**Sec. 5153.78.** (A) As used in this section: 63677

(1) "Title IV-B" means Title IV-B of the "Social Security Act 63678  
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 63679

(2) "Title IV-E" means Title IV-E of the "Social Security 63680  
Act," 94 Stat. 501, 42 U.S.C. 670(1980). 63681

(3) "Title XX" has the same meaning as in section 5101.46 of 63682  
the Revised Code. 63683

(B) For purposes of adequately funding the Ohio child welfare 63684  
training program, the department of job and family services may 63685  
use any of the following: 63686

(1) The federal financial participation funds withheld 63687  
pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised 63688  
Code in an amount determined by the department; 63689

(2) Funds available under Title XX, Title IV-B, and Title 63690  
IV-E to pay for training costs; 63691

(3) Other available state or federal funds. 63692

**Sec. 5301.68.** An owner of land may grant a conservation 63693  
easement to the department of natural resources, a park district 63694  
created under Chapter 1545. of the Revised Code, a township park 63695  
district created under section 511.18 of the Revised Code, a 63696

conservancy district created under Chapter 6101. of the Revised 63697  
Code, a soil and water conservation district created under Chapter 63698  
1515. of the Revised Code, a county, a township, a municipal 63699  
corporation, or a charitable organization that is authorized to 63700  
hold conservation easements by division (B) of section 5301.69 of 63701  
the Revised Code, in the form of articles of dedication, easement, 63702  
covenant, restriction, or condition. An owner of land also may 63703  
grant an agricultural easement to the director of agriculture; to 63704  
a municipal corporation, county, ~~or township,~~ or soil and water 63705  
conservation district; or to a charitable organization described 63706  
in division (B) of section 5301.69 of the Revised Code. An owner 63707  
of land may grant an agricultural easement only on land that is 63708  
valued for purposes of real property taxation at its current value 63709  
for agricultural use under section 5713.31 of the Revised Code or 63710  
that constitutes a homestead when the easement is granted. 63711

All conservation easements and agricultural easements shall 63712  
be executed and recorded in the same manner as other instruments 63713  
conveying interests in land. 63714

**Sec. 5301.691.** (A)(1) Subject to divisions (A)(2) and ~~(E)~~(F) 63715  
of this section, the director of agriculture, with moneys credited 63716  
to the agricultural easement purchase fund created in section 63717  
901.21 of the Revised Code, may purchase agricultural easements in 63718  
the name of the state. 63719

(2) Not less than thirty days prior to the acquisition of an 63720  
agricultural easement under division (A)(1) of this section or the 63721  
extinguishment of such an easement purchased under that division, 63722  
the director shall provide written notice of the intention to do 63723  
so to the board of county commissioners of the county in which the 63724  
land that is or is proposed to be subject to the easement or 63725  
extinguishment is located, and either to the legislative authority 63726  
of the municipal corporation in which the land is located, if it 63727

is located in an incorporated area, or to the board of township 63728  
trustees of the township in which the land is located, if it is 63729  
located in an unincorporated area. If, within thirty days after 63730  
the director provides the notice, the board of county 63731  
commissioners, legislative authority, or board of township 63732  
trustees requests an informational meeting with the director 63733  
regarding the proposed acquisition or extinguishment, the director 63734  
shall meet with the legislative authority or board to respond to 63735  
the board's or authority's questions and concerns. If a meeting is 63736  
timely requested under division (A)(2) of this section, the 63737  
director shall not undertake the proposed acquisition or 63738  
extinguishment until after the meeting has been concluded. 63739

The director, upon the director's own initiative and prior to 63740  
the purchase of an agricultural easement under division (A)(1) of 63741  
this section or the extinguishment of such an easement, may hold 63742  
an informational meeting with the board of county commissioners 63743  
and the legislative authority of the municipal corporation or 63744  
board of township trustees in which land that would be affected by 63745  
the proposed acquisition or extinguishment is located, to respond 63746  
to any questions and concerns of the board or authority regarding 63747  
the proposed acquisition or extinguishment. 63748

(B)(1) Subject to division ~~(E)~~(F) of this section, the 63749  
legislative authority of a municipal corporation, board of county 63750  
commissioners of a county, or board of trustees of a township, 63751  
with moneys in the political subdivision's general fund not 63752  
required by law or charter to be used for other specified purposes 63753  
or with moneys in a special fund of the political subdivision to 63754  
be used for the purchase of agricultural easements, may purchase 63755  
agricultural easements in the name of the municipal corporation, 63756  
county, or township. 63757

(2) Subject to division ~~(E)~~(F) of this section, the 63758  
legislative authority of a municipal corporation, board of county 63759

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 63792  
include provisions specifying, at a minimum, all of the following: 63793

(a) The consideration to be paid for the easement and manner 63794  
of payment; 63795

(b) Whether the easement is renewable and, if so, procedures 63796  
for its renewal; 63797

(c) The circumstances under which the easement may be 63798  
extinguished; 63799

(d) The method for determining the amount of money, if any, 63800  
due the holder of the easement upon extinguishment and for payment 63801  
of that amount to the holder. 63802

~~(D)~~(E)(1) The director and each legislative authority of a 63803  
municipal corporation, board of county commissioners, ~~or~~ board of 63804  
township trustees, or board of supervisors of a soil and water 63805  
conservation district, upon acquiring an agricultural easement by 63806  
purchase, gift, devise, or bequest under this section or section 63807  
901.21 of the Revised Code, shall name an appropriate 63808  
administrative officer, department, or division to supervise and 63809  
enforce the easement. A legislative authority ~~or~~ of a municipal 63810  
corporation, board of county commissioners, or board of township 63811  
trustees may enter into a contract with the board of park 63812  
commissioners of a park district established under Chapter 1545. 63813  
of the Revised Code, the board of park commissioners of a township 63814  
park district established under section 511.18 of the Revised 63815  
Code, or the board of supervisors of a soil and water conservation 63816  
district ~~established under Chapter 1515. of the Revised Code~~ 63817  
having territorial jurisdiction within the municipal corporation, 63818  
county, or township, or with a charitable organization described 63819  
in division (B) of section 5301.69 of the Revised Code, to 63820  
supervise on behalf of the legislative authority or board an 63821  
agricultural easement so acquired. A board of supervisors of a 63822

soil and water conservation district may enter into a contract 63823  
with the board of park commissioners of a park district 63824  
established under Chapter 1545. of the Revised Code or the board 63825  
of park commissioners of a township park district established 63826  
under section 511.18 of the Revised Code having territorial 63827  
jurisdiction within the soil and water conservation district, or 63828  
with a charitable organization described in division (B) of 63829  
section 5301.69 of the Revised Code, to supervise on behalf of the 63830  
board an agricultural easement so acquired. The contract may be 63831  
entered into on such terms as are agreeable to the parties and 63832  
shall specify or prescribe a method for determining the amounts of 63833  
any payments to be made by the legislative authority ~~or~~, board of 63834  
county commissioners ~~or~~, board of township trustees, or board of 63835  
supervisors for the performance of the contract. 63836

(2) With respect to an agricultural easement purchased with a 63837  
matching grant that is made under division (D) of section 901.22 63838  
of the Revised Code and that consists in whole or in part of 63839  
moneys from the clean Ohio agricultural easement fund created in 63840  
section 901.21 of the Revised Code, the recipient of the matching 63841  
grant shall make an annual monitoring visit to the land that is 63842  
the subject of the easement. The purpose of the visit is to ensure 63843  
that no development that is prohibited by the terms of the 63844  
easement has occurred or is occurring. In accordance with rules 63845  
adopted under division (A)(1)(d) of section 901.22 of the Revised 63846  
Code, the grant recipient shall prepare a written annual 63847  
monitoring report and submit it to the office of farmland 63848  
preservation in the department of agriculture. If necessary to 63849  
enforce the terms of the easement, the grant recipient shall take 63850  
corrective action in accordance with those rules. The director may 63851  
agree to share these monitoring and enforcement responsibilities 63852  
with the grant recipient. 63853

~~(E)~~(F) The director; a municipal corporation, county, ~~or~~ 63854

~~township, or soil and water conservation district; or a charitable~~ 63855  
~~organization described in division (B) of section 5301.69 of the~~ 63856  
~~Revised Code,~~ may acquire agricultural easements by purchase, 63857  
gift, devise, or bequest only on land that is valued for purposes 63858  
of real property taxation at its current value for agricultural 63859  
use under section 5713.31 of the Revised Code or that constitutes 63860  
a homestead when the easement is granted. 63861

~~(F)~~(G) An agricultural easement acquired by the director 63862  
under division (A) of this section may be extinguished if an 63863  
unexpected change in the conditions of or surrounding the land 63864  
that is subject to the easement makes impossible or impractical 63865  
the continued use of the land for the purposes described in the 63866  
agricultural easement, or if the requirements of the easement are 63867  
extinguished by judicial proceedings. Upon the sale, exchange, or 63868  
involuntary conversion of the land subject to the easement, the 63869  
director shall be paid an amount of money that is at least equal 63870  
to the proportionate value of the easement compared to the total 63871  
value of the land at the time the easement was acquired. Moneys so 63872  
received shall be credited to the agricultural easement purchase 63873  
fund. 63874

An agricultural easement acquired by a municipal corporation, 63875  
county, or township under division (B) of this section or by a 63876  
soil and water conservation district under division (C) of this 63877  
section may be extinguished under the circumstances prescribed, 63878  
and in accordance with the terms and conditions set forth, in the 63879  
instrument conveying the agricultural easement. An agricultural 63880  
easement acquired by a charitable organization described in 63881  
division (B) of section 5301.69 of the Revised Code may be 63882  
extinguished under the circumstances prescribed, and in accordance 63883  
with the terms and conditions set forth, in the instrument 63884  
conveying the agricultural easement. 63885

Any instrument extinguishing an agricultural easement shall 63886

be executed and recorded in the same manner as other instruments 63887  
conveying or terminating interests in real property. 63888

~~(G)~~(H) Promptly after the recording and indexing of an 63889  
instrument conveying an agricultural easement to any person or to 63890  
a municipal corporation, county, ~~or~~ township, or soil and water 63891  
conservation district or of an instrument extinguishing an 63892  
agricultural easement held by any person or such a political 63893  
subdivision, the county recorder shall mail, by regular mail, a 63894  
photocopy of the instrument to the office of farmland preservation 63895  
in the department of agriculture. The photocopy shall be 63896  
accompanied by an invoice for the applicable fee established in 63897  
section 317.32 of the Revised Code. Promptly after receiving the 63898  
photocopy and invoice, the office of farmland preservation shall 63899  
remit the fee to the county recorder. 63900

~~(H)~~(I) The director, the legislative authority of a municipal 63901  
corporation, a board of county commissioners, ~~or~~ a board of 63902  
township trustees, or a board of supervisors of a soil and water 63903  
conservation district may receive and expend grants from any 63904  
public or private source for the purpose of purchasing 63905  
agricultural easements and supervising and enforcing them. 63906

**Sec. 5310.15.** On filing an application for registration, the 63907  
applicant shall pay to the clerk of the probate court or the clerk 63908  
of the court of common pleas ten dollars, which is full payment 63909  
for all clerk's fees and charges in such proceeding on behalf of 63910  
the applicant. Any defendant, except a guardian ad litem, on 63911  
entering ~~his~~ an appearance by filing a pleading of any kind, shall 63912  
pay to the clerk five dollars, which is full payment for all 63913  
clerk's fees on behalf of such defendant. When any number of 63914  
defendants enter their appearance at the same time in one pleading 63915  
by filing a pleading of any kind, one fee shall be paid. 63916

Every required publication in a newspaper shall be paid for 63917

by the party on whose application the order of publication is 63918  
made, in addition to the fees prescribed in the first paragraph of 63919  
this section. The party at whose request, or on whose behalf, any 63920  
notice is issued, shall pay for the service of such notice except 63921  
when such notice is sent by mail by the clerk or the county 63922  
recorder. 63923

Examiners of titles shall receive for examining title or 63924  
original reference, and making report on all matters arising under 63925  
the application, including final certificate as to all necessary 63926  
parties being made and properly brought before the probate court 63927  
or the court of common pleas, and as to the proceedings being 63928  
regular and legal, one half of one per cent of the appraised tax 63929  
value, the fee in no case to be less than seventy-five or more 63930  
than two hundred fifty dollars, for each separate and distinct 63931  
parcel of land included in the application although made up of 63932  
more than one tract. 63933

Upon a reference to an examiner of titles or to any other 63934  
person upon a hearing to take evidence and make report to the 63935  
court, the fee of the referee shall be fixed by the court at not 63936  
more than fifteen dollars per day for the time actually employed. 63937

For a certificate of an examiner of titles that all necessary 63938  
parties are before the court, and the proceedings are regular and 63939  
legal in a suit for partition, foreclosure of mortgage, 63940  
marshalling of liens, or other suit or proceeding affecting the 63941  
title of any interest in, or lien or charge upon registered lands, 63942  
the fees shall be fixed by the court, and shall not be more than 63943  
twenty-five dollars for each separate and distinct parcel of land 63944  
included in the petition or application although such parcel is 63945  
made up of more than one tract. 63946

Guardians for the suit in original registration shall receive 63947  
three dollars when there is no contest in which the guardian 63948  
participates. In other cases such guardians shall receive such 63949

fees as the court fixes, but not more than twenty-five dollars. 63950

For certifying pending suits, judgments, liens, attachments, 63951  
executions, or levies, the officers certifying them to the 63952  
recorder shall receive a fee of twenty-five cents to be paid by 63953  
the party interested and taxed in the costs of the case. 63954

For serving summons, notice, or other paper provided for in 63955  
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 63956  
other officer shall receive the same fees as in other similar 63957  
cases. 63958

The recorder shall receive the following fees, to include 63959  
base fees for services and housing trust fund fees pursuant to 63960  
section 317.36 of the Revised Code: 63961

(A) For original registration of title, issuing duplicate 63962  
certificate, entering memorials and memorandums, as directed by 63963  
the decree, and indexing it, a base fee of thirty dollars and a 63964  
housing trust fund fee of thirty dollars; 63965

(B) For examining and registering each transfer of registered 63966  
land, including the filing of all papers therewith, entering 63967  
memorials, issuing new duplicate certificate of title and indexing 63968  
it, a base fee of thirty dollars and a housing trust fund fee of 63969  
thirty dollars for the first distinct body or parcel of land 63970  
contained in such certificate, and a base fee of two dollars and a 63971  
housing trust fund fee of two dollars for each additional distinct 63972  
body or parcel of land contained in such certificate; 63973

(C) For filing, examining, and entering a memorial of each 63974  
mortgage or lease, upon registered land, and indexing it, for each 63975  
separately registered parcel, a base fee of ten dollars and a 63976  
housing trust fund fee of ten dollars; 63977

(D) For filing, examining, and entering a memorial of each 63978  
lien, charge, or demand upon registered land, and indexing it, for 63979  
each separately registered parcel of land, a base fee of five 63980

dollars and a housing trust fund fee of five dollars; 63981

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; 63982  
for entry of change of address, or notice of dower, for each 63983  
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63984  
63985  
63986

(F) For each certified copy of a registered certificate, or 63987  
issuing a mortgagee's duplicate certificate, or issuing a new 63988  
owner's duplicate certificate to replace one which has been lost 63989  
or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars; 63990  
63991

(G) For filing, examining, and entering a memorial of each 63992  
release, assignment, or waiver of priority of a mortgage, lease, 63993  
lien, charge, or demand upon registered land and indexing it, for 63994  
each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63995  
63996

(H) For filing, examining, and entering a memorial of each 63997  
official certificate of pending suit, judgment, lien, attachment, 63998  
execution, or levy, upon registered land and indexing it, for each 63999  
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 64000  
64001

(I) For continuing an owner's duplicate certificate, or 64002  
mortgagee's duplicate certificate and entering and certifying 64003  
memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars; 64004  
64005

(J) For certificate as to taxes and special assessments, for 64006  
each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars; 64007  
64008

(K) For filing, recording, and indexing any papers or 64009  
instruments other than those provided in this section, any 64010  
certified copy of record, or of any instrument on file in ~~his~~ the 64011

recorder's office, the same fees allowed by law for like services; 64012

(L) For issuing subpoenas and notices and swearing witnesses, 64013  
the same fees allowed the clerk for like services. 64014

Costs as provided in this section may be taxed and by the 64015  
court ordered to be paid by the parties in such manner as is just. 64016

**Sec. 5502.01.** (A) The department of public safety shall 64017  
administer and enforce the laws relating to the registration, 64018  
licensing, sale, and operation of motor vehicles and the laws 64019  
pertaining to the licensing of drivers of motor vehicles. 64020

The department shall compile, analyze, and publish statistics 64021  
relative to motor vehicle accidents and the causes of them, 64022  
prepare and conduct educational programs for the purpose of 64023  
promoting safety in the operation of motor vehicles on the 64024  
highways, and conduct research and studies for the purpose of 64025  
promoting safety on the highways of this state. 64026

(B) The department shall administer the laws and rules 64027  
relative to trauma and emergency medical services specified in 64028  
Chapter 4765. of the Revised Code. 64029

(C) The department shall administer and enforce the laws 64030  
contained in Chapters 4301. and 4303. of the Revised Code and 64031  
enforce the rules and orders of the liquor control commission 64032  
pertaining to retail liquor permit holders. 64033

(D) The department shall administer the laws governing the 64034  
state emergency management agency and shall enforce all additional 64035  
duties and responsibilities as prescribed in the Revised Code 64036  
related to emergency management services. 64037

(E) The department shall conduct investigations pursuant to 64038  
Chapter 5101. of the Revised Code in support of the duty of the 64039  
department of job and family services to administer food stamp 64040  
programs throughout this state. The department of public safety 64041

shall conduct investigations necessary to protect the state's 64042  
property rights and interests in the food stamp program. 64043

(F) The department of public safety shall enforce compliance 64044  
with orders and rules of the public utilities commission and 64045  
applicable laws in accordance with Chapters 4919., 4921., and 64046  
4923. of the Revised Code regarding commercial motor vehicle 64047  
transportation safety, economic, and hazardous materials 64048  
requirements. 64049

(G) Notwithstanding Chapter 4117. of the Revised Code, the 64050  
department of public safety may establish requirements for its 64051  
enforcement personnel, including its enforcement agents described 64052  
in section 5502.14 of the Revised Code, that include standards of 64053  
conduct, work rules and procedures, and criteria for eligibility 64054  
as law enforcement personnel. 64055

(H) The department shall administer, maintain, and operate 64056  
the Ohio criminal justice network. The Ohio criminal justice 64057  
network shall be a computer network that supports state and local 64058  
criminal justice activities. The network shall be an electronic 64059  
repository for various data, which may include arrest warrants, 64060  
notices of persons wanted by law enforcement agencies, criminal 64061  
records, prison inmate records, stolen vehicle records, vehicle 64062  
operator's licenses, and vehicle registrations and titles. 64063

(I) The department shall coordinate all homeland security 64064  
activities of all state agencies and shall be a liaison between 64065  
state agencies and local entities for those activities and related 64066  
purposes. 64067

(J) Beginning January 1, 2004, the department shall 64068  
administer the laws and rules relative to private investigators 64069  
and security guard providers specified in Chapter 4749. of the 64070  
Revised Code. 64071

(K) There is hereby created in the department of public 64072

safety the division of the state fire marshal, which shall 64073  
administer and enforce Chapters 3731. and 3743. of the Revised 64074  
Code and any other law conferring powers or imposing duties upon 64075  
the state fire marshal. 64076

**Sec. 5502.03.** (A) There is hereby created in the department 64077  
of public safety a division of homeland security. It is the intent 64078  
of the general assembly that the creation of the division of 64079  
homeland security of the department of public safety by this 64080  
amendment does not result in an increase of funding appropriated 64081  
to the department. 64082

(B)(1) The division shall coordinate all homeland security 64083  
activities of all state agencies and shall be the liaison between 64084  
state agencies and local entities for the purposes of 64085  
communicating homeland security funding and policy initiatives. 64086

(2) The division shall be in charge of the systems operations 64087  
of the multi-agency radio communications system (MARCS) in 64088  
accordance with any rules that the director of public safety may 64089  
adopt. The director shall appoint a steering committee to advise 64090  
the director in the operation of the MARCS, comprised of persons 64091  
who represent the users of that system. The director or the 64092  
director's designee shall chair the committee. 64093

(C) The director of public safety shall appoint an executive 64094  
director, who shall be head of the division of homeland security 64095  
and who regularly shall advise the governor and the director on 64096  
matters pertaining to homeland security. The executive director 64097  
shall serve at the pleasure of the director of public safety. To 64098  
carry out the duties assigned under this section, the executive 64099  
director, subject to the direction and control of the director of 64100  
public safety, may appoint and maintain necessary staff and may 64101  
enter into any necessary agreements. 64102

(D) Except as otherwise provided by law, nothing in this 64103

section shall be construed to give the director of public safety 64104  
or the executive director of the division of homeland security 64105  
authority over the incident management structure or 64106  
responsibilities of local emergency response personnel. 64107

**Sec. 5502.13.** The department of public safety shall maintain 64108  
an investigative unit in order to conduct investigations and other 64109  
enforcement activity authorized by Chapters 4301., 4303., 5101., 64110  
5107., ~~and 5108.,~~ and 5115. and sections 2903.12, 2903.13, 64111  
2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 64112  
2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 64113  
4507.30, ~~and 5115.03~~ of the Revised Code. The director of public 64114  
safety shall appoint the employees of the unit who are necessary, 64115  
designate the activities to be performed by those employees, and 64116  
prescribe their titles and duties. 64117

**Sec. 5549.21.** The board of township trustees may purchase or 64118  
lease such machinery and tools as are necessary for use in 64119  
constructing, reconstructing, maintaining, and repairing roads and 64120  
culverts within the township, and shall provide suitable places 64121  
for housing and storing machinery and tools owned by the township. 64122  
It may purchase such material and employ such labor as is 64123  
necessary for carrying into effect this section, or it may 64124  
authorize the purchase or employment of such material and labor by 64125  
one of its number, or by the township highway superintendent, at a 64126  
price to be fixed by the board. All payments on account of 64127  
machinery, tools, material, and labor shall be made from the 64128  
township road fund. Except as otherwise provided in sections 64129  
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 64130  
materials, machinery, and tools shall, ~~where~~ if the amount 64131  
involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made 64132  
from the lowest responsible bidder after advertisement, as 64133  
provided in section 5575.01 of the Revised Code. ~~where~~ 64134

If, in compliance with section 505.10 of the Revised Code, 64135  
the board wishes to sell machinery, equipment, or tools owned by 64136  
the township to the person from whom it is to purchase other 64137  
machinery, equipment, or tools, the board may offer, ~~where if~~ the 64138  
amount of the purchase alone involved does not exceed ~~fifteen~~ 64139  
twenty-five thousand dollars, to sell such machinery, equipment, 64140  
or tools and have the amount credited by the vendor against the 64141  
purchase of the other machinery, equipment, or tools. ~~Where~~ If the 64142  
purchase price of the other machinery, equipment, or tools alone 64143  
exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give 64144  
notice to the competitive bidders of its willingness to accept 64145  
offers for the purchase of the old machinery, equipment, or tools, 64146  
and ~~such~~ those offers shall be subtracted from the selling price 64147  
of the other machinery, equipment, or tools as bid, in determining 64148  
the lowest responsible bidder. Notice of the willingness of the 64149  
board to accept offers for the purchase of the old machinery, 64150  
equipment, or tools shall be made as a part of the advertisement 64151  
for bids. 64152

**Sec. 5703.052.** (A) There is hereby created in the state 64153  
treasury the tax refund fund, from which refunds shall be paid for 64154  
taxes illegally or erroneously assessed or collected, or for any 64155  
other reason overpaid, that are levied by Chapter 4301., 4305., 64156  
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 64157  
5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 64158  
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 64159  
Revised Code. Refunds for fees illegally or erroneously assessed 64160  
or collected, or for any other reason overpaid, that are levied by 64161  
sections 3734.90 to 3734.9014 of the Revised Code also shall be 64162  
paid from the fund. However, refunds for taxes levied under 64163  
section 5739.101 of the Revised Code shall not be paid from the 64164  
tax refund fund, but shall be paid as provided in section 5739.104 64165  
of the Revised Code. 64166

(B)(1) Upon certification by the tax commissioner to the 64167  
treasurer of state of a tax refund, ~~or~~ fee refund, ~~or tax credit~~ 64168  
~~due~~, or by the superintendent of insurance of a domestic or 64169  
foreign insurance tax refund, the treasurer of state ~~may~~ shall 64170  
place the amount certified to the credit of the fund. The 64171  
certified amount transferred shall be derived from current 64172  
receipts of the same tax or the fee ~~for~~ from which the refund 64173  
arose ~~or, in the case of a tax credit refund, from the current~~ 64174  
~~receipts of the taxes levied by sections 5739.02 and 5741.02 of~~ 64175  
~~the Revised Code. If~~ 64176

~~If the tax refund arises from a tax payable to the general~~ 64177  
~~revenue fund, and current receipts from that source~~ the tax or fee 64178  
from which the refund arose are inadequate to make the transfer of 64179  
the amount so certified, the treasurer of state ~~may~~ shall transfer 64180  
such certified amount from current receipts of the sales tax 64181  
levied by section 5739.02 of the Revised Code. 64182

(2) When the treasurer of state provides for the payment of a 64183  
refund of a tax or fee from the current receipts of the sales tax, 64184  
and the refund is for a tax or fee that is not levied by the 64185  
state, the tax commissioner shall recover the amount of that 64186  
refund from the next distribution of that tax or fee that 64187  
otherwise would be made to the taxing jurisdiction. If the amount 64188  
to be recovered would exceed twenty-five per cent of the next 64189  
distribution of that tax or fee, the commissioner may spread the 64190  
recovery over more than one future distribution, taking into 64191  
account the amount to be recovered and the amount of the 64192  
anticipated future distributions. In no event may the commissioner 64193  
spread the recovery over a period to exceed twenty-four months. 64194

**Sec. 5703.56.** (A) As used in this section: 64195

(1) "Sham transaction" means a transaction or series of 64196  
transactions without economic substance because there is no 64197

business purpose or expectation of profit other than obtaining tax 64198  
benefits. 64199

(2) "Tax" includes any tax or fee administered by the tax 64200  
commissioner. 64201

(3) "Taxpayer" includes any entity subject to a tax. 64202

(4) "Controlled group" means two or more persons related in 64203  
such a way that one person directly or indirectly owns or controls 64204  
the business operation of another member of the group. In the case 64205  
of persons with stock or other equity, one person owns or controls 64206  
another if it directly or indirectly owns more than fifty per cent 64207  
of the other person's common stock with voting rights or other 64208  
equity with voting rights. 64209

(B) The tax commissioner may disregard any sham transaction 64210  
in ascertaining any taxpayer's tax liability. Except as otherwise 64211  
provided in the Revised Code, with respect to transactions between 64212  
members of a controlled group, the taxpayer shall bear the burden 64213  
of establishing by a preponderance of the evidence that a 64214  
transaction or series of transactions between the taxpayer and one 64215  
or more members of the controlled group was not a sham 64216  
transaction. Except as otherwise provided in the Revised Code, for 64217  
all other taxpayers, the tax commissioner shall bear the burden of 64218  
establishing by a preponderance of the evidence that a transaction 64219  
or series of transactions was a sham transaction. 64220

(C) In administering any tax, the tax commissioner may apply 64221  
the doctrines of "economic reality," "substance over form," and 64222  
"step transaction." 64223

(D) If the commissioner disregards a sham transaction under 64224  
division (B) of this section, the applicable limitation period for 64225  
assessing the tax, together with applicable penalties, charges, 64226  
and interest, shall be extended for a period equal to the 64227  
applicable limitation period. Nothing in this division shall be 64228

construed as extending an applicable limitation period for 64229  
claiming any refund of a tax. 64230

(E) The tax commissioner may, in accordance with Chapter 119. 64231  
of the Revised Code, adopt rules that are necessary to administer 64232  
this section, including rules establishing criteria for 64233  
identifying sham transactions. 64234

Sec. 5703.57. (A) As used in this section, "Ohio business 64235  
gateway" has the same meaning as in section 718.051 of the Revised 64236  
Code. 64237

(B) There is hereby created the Ohio business gateway 64238  
steering committee to direct the continuing development of the 64239  
Ohio business gateway and to oversee its operations. The committee 64240  
shall provide general oversight regarding operation of the Ohio 64241  
business gateway and shall recommend to the department of 64242  
administrative services enhancements that will improve the Ohio 64243  
business gateway. The committee shall consider all banking, 64244  
technological, administrative, and other issues associated with 64245  
the Ohio business gateway and shall make recommendations regarding 64246  
the type of reporting forms or other tax documents to be filed 64247  
through the Ohio business gateway. 64248

(C) The committee shall consist of: 64249

(1) The following members, appointed by the governor with the 64250  
advice and consent of the senate: 64251

(a) Not more than two representatives of the business 64252  
community; 64253

(b) Not more than three representatives of municipal tax 64254  
administrators; and 64255

(c) Not more than two tax practitioners. 64256

(2) The following ex officio members: 64257

<u>(a) The director or other highest officer of each state</u>	64258
<u>agency that has tax reporting forms or other tax documents filed</u>	64259
<u>with it through the Ohio business gateway or the director's</u>	64260
<u>designee;</u>	64261
<u>(b) The secretary of state or the secretary of state's</u>	64262
<u>designee;</u>	64263
<u>(c) The treasurer of state or the treasurer of state's</u>	64264
<u>designee;</u>	64265
<u>(d) The director of budget and management or the director's</u>	64266
<u>designee;</u>	64267
<u>(e) The director of administrative services or the director's</u>	64268
<u>designee; and</u>	64269
<u>(f) The tax commissioner or the tax commissioner's designee.</u>	64270
<u>An appointed member shall serve until the member resigns or</u>	64271
<u>is removed by the governor. Vacancies shall be filled in the same</u>	64272
<u>manner as original appointments.</u>	64273
<u>(D) A vacancy on the committee does not impair the right of</u>	64274
<u>the other members to exercise all the functions of the committee.</u>	64275
<u>The presence of a majority of the members of the committee</u>	64276
<u>constitutes a quorum for the conduct of business of the committee.</u>	64277
<u>The concurrence of at least a majority of the members of the</u>	64278
<u>committee is necessary for any action to be taken by the</u>	64279
<u>committee. On request, each member of the committee shall be</u>	64280
<u>reimbursed for the actual and necessary expenses incurred in the</u>	64281
<u>discharge of the member's duties.</u>	64282
<u>(E) The board is a part of the department of taxation for</u>	64283
<u>administrative purposes.</u>	64284
<u>(F) Each year, the governor shall select a member of the</u>	64285
<u>committee to serve as chairperson. The chairperson shall appoint</u>	64286
<u>an official or employee of the department of taxation to act as</u>	64287

the committee's secretary. The secretary shall keep minutes of the 64288  
committee's meetings and a journal of all meetings, proceedings, 64289  
findings, and determinations of the committee. 64290

(G) The board shall hire professional, technical, and 64291  
clerical staff needed to support its activities. 64292

(H) The committee shall meet as often as necessary to perform 64293  
its duties. 64294

**Sec. 5703.58.** (A) As used in this section, "felony" has the 64295  
same meaning as in section 109.511 of the Revised Code. 64296

(B) For the purposes of enforcing all laws relating to taxes 64297  
and fees that the tax commissioner is responsible for 64298  
administering, the tax commissioner, by journal entry, may 64299  
delegate any investigation powers of the commissioner to an 64300  
employee of the department of taxation who has been certified by 64301  
the executive director of the Ohio peace officer training 64302  
commission. Each journal entry shall be a matter of public record 64303  
and shall be kept in an administrative portion of the journal 64304  
maintained under division (L) of section 5703.05 of the Revised 64305  
Code. When that journal entry is completed, the employee to whom 64306  
it pertains, while engaged within the scope of the employee's 64307  
duties in enforcing the laws that the commissioner is responsible 64308  
for administering, has the power of a police officer to carry 64309  
concealed weapons, make arrests, and obtain warrants for 64310  
violations of those laws. The commissioner, at any time, may 64311  
suspend or revoke the commissioner's delegation by journal entry. 64312

(C) The tax commissioner shall not delegate any investigation 64313  
powers to an employee of the department of taxation under division 64314  
(B) of this section if the employee has been convicted of or has 64315  
pleaded guilty to a felony. 64316

(D)(1) The tax commissioner shall revoke the delegation of 64317

investigation powers to an employee to whom the delegation was 64318  
made under division (B) of this section if that employee does 64319  
either of the following: 64320

(a) Pleads guilty to a felony; 64321

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 64322  
plea agreement, as provided in division (D) of section 2929.29 of 64323  
the Revised Code, in which the employee agrees under section 64324  
109.77 of the Revised Code to surrender the certificate awarded to 64325  
that employee. 64326

(2) The tax commissioner shall suspend the delegation of 64327  
investigation powers to an employee to whom the delegation was 64328  
made under division (B) of this section if that employee is 64329  
convicted, after trial, of a felony. If the employee files an 64330  
appeal from that conviction and the conviction is upheld by the 64331  
highest court to which the appeal is taken, or if the employee 64332  
does not file a timely appeal, the commissioner shall revoke the 64333  
delegation of investigation powers to that employee. If the 64334  
employee files an appeal that results in that employee's acquittal 64335  
of the felony or conviction of a misdemeanor, or in the dismissal 64336  
of the felony charge against that employee, the commissioner shall 64337  
reinstate the delegation of investigation powers to that employee. 64338  
The revocation, suspension, or reinstatement of the delegation of 64339  
investigation powers to an employee under division (D) of this 64340  
section shall be made by journal entry pursuant to division (B) of 64341  
this section. An employee to whom the delegation of investigation 64342  
powers is reinstated under division (D)(2) of this section shall 64343  
not receive any back pay for the exercise of those investigation 64344  
powers, unless that employee's conviction of the felony was 64345  
reversed on appeal, or the felony charge was dismissed, because 64346  
the court found insufficient evidence to convict the employee of 64347  
the felony. 64348

(3) The revocation or suspension of the delegation of 64349

investigation powers to an employee under division (D) of this 64350  
section shall be in accordance with Chapter 119. of the Revised 64351  
Code. 64352

(E) Divisions (C) and (D) of this section do not apply to an 64353  
offense that was committed prior to January 1, 1997. 64354

(F) Nothing in this section limits the tax commissioner's 64355  
ability to have other employees of the department of taxation 64356  
conduct investigations as authorized by sections 5703.17 and 64357  
5703.19 of the Revised Code. 64358

(G) The department of taxation shall cooperate with the 64359  
attorney general, local law enforcement officials, and appropriate 64360  
agencies of the federal government and other states in the 64361  
investigation and prosecution of violations of all laws relating 64362  
to taxes and fees administered by the tax commissioner. 64363

**Sec. 5703.80.** There is hereby created in the state treasury 64364  
the property tax administration fund. All money to the credit of 64365  
the fund shall be used to defray the costs incurred by the 64366  
department of taxation in administering the taxation of property 64367  
and the equalization of real property valuation. 64368

Each fiscal year between the first and fifteenth days of 64369  
July, the tax commissioner shall compute the following amounts for 64370  
the property in each taxing district in each county, and certify 64371  
to the director of budget and management the sum of those amounts 64372  
for all taxing districts in all counties: 64373

(A) Three-tenths of one per cent of the total amount by which 64374  
taxes charged against real property on the general tax list of 64375  
real and public utility property were reduced under section 64376  
319.302 of the Revised Code for the preceding tax year; 64377

(B) Fifteen-hundredths of one per cent of the total amount of 64378  
taxes charged and payable against public utility personal property 64379

on the general tax list of real and public utility property for 64380  
the preceding tax year; 64381

(C) Seventy-five hundredths of one per cent of the total 64382  
amount of taxes charged and payable against tangible personal 64383  
property on the general tax list of personal property of the 64384  
preceding tax year and for which returns were filed with the tax 64385  
commissioner under section 5711.13 of the Revised Code. 64386

After receiving the tax commissioner's certification, the 64387  
director of budget and management shall transfer from the general 64388  
revenue fund to the property tax administration fund one-fourth of 64389  
the amount certified on or before each of the following days: the 64390  
first days of August, November, February, and May. 64391

On or before the thirtieth day of June of the fiscal year, 64392  
the tax commissioner shall certify to the director of budget and 64393  
management the sum of the amounts by which the amounts computed 64394  
for a taxing district under divisions (A), (B), and (C) of this 64395  
section exceeded the distributions to the taxing district under 64396  
division (F) of section 321.24 of the Revised Code, and the 64397  
director shall transfer that sum from the property tax 64398  
administration fund to the general revenue fund. 64399

**Sec. 5705.39.** The total appropriations from each fund shall 64400  
not exceed the total of the estimated revenue available for 64401  
expenditure therefrom, as certified by the budget commission, or 64402  
in case of appeal, by the board of tax appeals. No appropriation 64403  
measure shall become effective until the county auditor files with 64404  
the appropriating authority ~~and in the case of a school district,~~ 64405  
~~also files with the superintendent of public instruction,~~ a 64406  
certificate that the total appropriations from each fund, taken 64407  
together with all other outstanding appropriations, do not exceed 64408  
such official estimate or amended official estimate. When the 64409  
appropriation does not exceed such official estimate, the county 64410

auditor shall give such certificate forthwith upon receiving from 64411  
the appropriating authority a certified copy of the appropriation 64412  
measure, ~~a copy of which he shall deliver to the superintendent of~~ 64413  
~~public instruction in the case of a school district.~~ 64414  
Appropriations shall be made from each fund only for the purposes 64415  
for which such fund is established. 64416

**Sec. 5705.41.** No subdivision or taxing unit shall: 64417

(A) Make any appropriation of money except as provided in 64418  
Chapter 5705. of the Revised Code; provided, that the 64419  
authorization of a bond issue shall be deemed to be an 64420  
appropriation of the proceeds of the bond issue for the purpose 64421  
for which such bonds were issued, but no expenditure shall be made 64422  
from any bond fund until first authorized by the taxing authority; 64423

(B) Make any expenditure of money unless it has been 64424  
appropriated as provided in such chapter; 64425

(C) Make any expenditure of money except by a proper warrant 64426  
drawn against an appropriate fund; 64427

(D)(1) Except as otherwise provided in division (D)(2) of 64428  
this section and section 5705.44 of the Revised Code, make any 64429  
contract or give any order involving the expenditure of money 64430  
unless there is attached thereto a certificate of the fiscal 64431  
officer of the subdivision that the amount required to meet the 64432  
obligation or, in the case of a continuing contract to be 64433  
performed in whole or in part in an ensuing fiscal year, the 64434  
amount required to meet the obligation in the fiscal year in which 64435  
the contract is made, has been lawfully appropriated for such 64436  
purpose and is in the treasury or in process of collection to the 64437  
credit of an appropriate fund free from any previous encumbrances. 64438  
This certificate need be signed only by the subdivision's fiscal 64439  
officer. Every such contract made without such a certificate shall 64440  
be void, and no warrant shall be issued in payment of any amount 64441

due thereon. If no certificate is furnished as required, upon 64442  
receipt by the taxing authority of the subdivision or taxing unit 64443  
of a certificate of the fiscal officer stating that there was at 64444  
the time of the making of such contract or order and at the time 64445  
of the execution of such certificate a sufficient sum appropriated 64446  
for the purpose of such contract and in the treasury or in process 64447  
of collection to the credit of an appropriate fund free from any 64448  
previous encumbrances, such taxing authority may authorize the 64449  
drawing of a warrant in payment of amounts due upon such contract, 64450  
but such resolution or ordinance shall be passed within thirty 64451  
days after the taxing authority receives such certificate; 64452  
provided that, if the amount involved is less than one hundred 64453  
dollars in the case of counties or three thousand dollars in the 64454  
case of all other subdivisions or taxing units, the fiscal officer 64455  
may authorize it to be paid without such affirmation of the taxing 64456  
authority of the subdivision or taxing unit, if such expenditure 64457  
is otherwise valid. 64458

(2) Annually, the board of county commissioners may adopt a 64459  
resolution exempting for the current fiscal year county purchases 64460  
of seven hundred fifty dollars or less from the requirement of 64461  
division (D)(1) of this section that a certificate be attached to 64462  
any contract or order involving the expenditure of money. The 64463  
resolution shall state the dollar amount that is exempted from the 64464  
certificate requirement and whether the exemption applies to all 64465  
purchases, to one or more specific classes of purchases, or to the 64466  
purchase of one or more specific items. Prior to the adoption of 64467  
the resolution, the board shall give written notice to the county 64468  
auditor that it intends to adopt the resolution. The notice shall 64469  
state the dollar amount that is proposed to be exempted and 64470  
whether the exemption would apply to all purchases, to one or more 64471  
specific classes of purchases, or to the purchase of one or more 64472  
specific items. The county auditor may review and comment on the 64473  
proposal, and shall send any comments to the board within fifteen 64474

days after receiving the notice. The board shall wait at least 64475  
fifteen days after giving the notice to the auditor before 64476  
adopting the resolution. A person authorized to make a county 64477  
purchase in a county that has adopted such a resolution shall 64478  
prepare and file with the county auditor, within three business 64479  
days after incurring an obligation not requiring a certificate, a 64480  
written document specifying the purpose and amount of the 64481  
expenditure, the date of the purchase, the name of the vendor, and 64482  
such additional information as the auditor of state may prescribe. 64483

(3) Upon certification by the auditor or other chief fiscal 64484  
officer that a certain sum of money, not in excess of ~~five~~ 64485  
~~thousand dollars~~ an amount established by resolution or ordinance 64486  
adopted by a majority of the members of the legislative authority 64487  
of the subdivision or taxing unit, has been lawfully appropriated, 64488  
authorized, or directed for a certain purpose and is in the 64489  
treasury or in the process of collection to the credit of a 64490  
specific line-item appropriation account in a certain fund free 64491  
from previous and then outstanding obligations or certifications, 64492  
then for such purpose and from such line-item appropriation 64493  
account in such fund, over a period ~~not exceeding three months and~~ 64494  
not extending beyond the end of the fiscal year, expenditures may 64495  
be made, orders for payment issued, and contracts or obligations 64496  
calling for or requiring the payment of money made and assumed; 64497  
provided, that the aggregate sum of money included in and called 64498  
for by such expenditures, orders, contracts, and obligations shall 64499  
not exceed the sum so certified. Such a certification need be 64500  
signed only by the fiscal officer of the subdivision or the taxing 64501  
district and may, but need not, be limited to a specific vendor. 64502  
An itemized statement of obligations incurred and expenditures 64503  
made under such certificate shall be rendered to the auditor or 64504  
other chief fiscal officer before another such certificate may be 64505  
issued, and not more than one such certificate shall be 64506  
outstanding at a time. 64507

In addition to providing the certification for expenditures 64508  
~~of five thousand dollars or less~~ as ~~provided~~ specified in this 64509  
division, a subdivision also may make expenditures, issue orders 64510  
for payment, and make contracts or obligations calling for or 64511  
requiring the payment of money made and assumed for specified 64512  
permitted purposes from a specific line-item appropriation account 64513  
in a specified fund for a sum of money upon the certification by 64514  
the fiscal officer of the subdivision that this sum of money has 64515  
been lawfully appropriated, authorized, or directed for a 64516  
permitted purpose and is in the treasury or in the process of 64517  
collection to the credit of the specific line-item appropriation 64518  
account in the specified fund free from previous and 64519  
then-outstanding obligations or certifications; provided that the 64520  
aggregate sum of money included in and called for by the 64521  
expenditures, orders, and obligations shall not exceed the 64522  
certified sum. The purposes for which a subdivision may lawfully 64523  
appropriate, authorize, or issue such a certificate are the 64524  
services of an accountant, architect, attorney at law, physician, 64525  
professional engineer, construction project manager, consultant, 64526  
surveyor, or appraiser by or on behalf of the subdivision or 64527  
contracting authority; fuel oil, gasoline, food items, roadway 64528  
materials, and utilities; and any purchases exempt from 64529  
competitive bidding under section 125.04 of the Revised Code and 64530  
any other specific expenditure that is a recurring and reasonably 64531  
predictable operating expense. Such a certification shall not 64532  
extend beyond the end of the fiscal year or, in the case of a 64533  
board of county commissioners that has established a quarterly 64534  
spending plan under section 5705.392 of the Revised Code, beyond 64535  
the quarter to which the plan applies. Such a certificate shall be 64536  
signed by the fiscal officer and may, but need not, be limited to 64537  
a specific vendor. An itemized statement of obligations incurred 64538  
and expenditures made under such a certificate shall be rendered 64539  
to the fiscal officer for each certificate issued. More than one 64540

such certificate may be outstanding at any time. 64541

In any case in which a contract is entered into upon a per 64542  
unit basis, the head of the department, board, or commission for 64543  
the benefit of which the contract is made shall make an estimate 64544  
of the total amount to become due upon such contract, which 64545  
estimate shall be certified in writing to the fiscal officer of 64546  
the subdivision. Such a contract may be entered into if the 64547  
appropriation covers such estimate, or so much thereof as may be 64548  
due during the current year. In such a case the certificate of the 64549  
fiscal officer based upon the estimate shall be a sufficient 64550  
compliance with the law requiring a certificate. 64551

Any certificate of the fiscal officer attached to a contract 64552  
shall be binding upon the political subdivision as to the facts 64553  
set forth therein. Upon request of any person receiving an order 64554  
or entering into a contract with any political subdivision, the 64555  
certificate of the fiscal officer shall be attached to such order 64556  
or contract. "Contract" as used in this section excludes current 64557  
payrolls of regular employees and officers. 64558

Taxes and other revenue in process of collection, or the 64559  
proceeds to be derived from authorized bonds, notes, or 64560  
certificates of indebtedness sold and in process of delivery, 64561  
shall for the purpose of this section be deemed in the treasury or 64562  
in process of collection and in the appropriate fund. This section 64563  
applies neither to the investment of sinking funds by the trustees 64564  
of such funds, nor to investments made under sections 731.56 to 64565  
731.59 of the Revised Code. 64566

No district authority shall, in transacting its own affairs, 64567  
do any of the things prohibited to a subdivision by this section, 64568  
but the appropriation referred to shall become the appropriation 64569  
by the district authority, and the fiscal officer referred to 64570  
shall mean the fiscal officer of the district authority. 64571

**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. 64603  
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(2) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract. 64605  
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(3) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule. 64607  
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If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and any succeeding fiscal years that the certificate must cover. 64609  
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The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose. 64617  
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(C) Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. 64624  
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(D) The department of education and the auditor of state jointly shall adopt rules governing the methods by which treasurers, presidents of boards of education, superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section. 64627  
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(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 64666  
section which contains any false statements is liable to the 64667  
school district for the full amount paid from the district's funds 64668  
on the contract or schedule. The officer, employee, or other 64669  
person is jointly and severally liable in person and upon any 64670  
official bond that the officer, employee, or other person has 64671  
given to the school district to the extent of any payments on the 64672  
void claim, not to exceed ten thousand dollars. However, no 64673  
officer, employee, or other person shall be liable for a mistaken 64674  
estimate of available resources made in good faith and based upon 64675  
reasonable grounds. If an officer, employee, or other person is 64676  
found to have complied with rules jointly adopted by the 64677  
department of education and the auditor of state under this 64678  
section governing methods by which revenue shall be estimated and 64679  
determined sufficient to provide necessary operating revenue for 64680  
the purpose of making certifications required by this section, the 64681  
officer, employee, or other person shall not be liable under this 64682  
section if the estimates and determinations made according to 64683  
those rules do not, in fact, conform with actual revenue. The 64684  
prosecuting attorney of the county, the city director of law, or 64685  
other chief law officer of the district shall enforce this 64686  
liability by civil action brought in any court of appropriate 64687  
jurisdiction in the name of and on behalf of the school district. 64688  
If the prosecuting attorney, city director of law, or other chief 64689  
law officer of the district fails, upon the written request of any 64690  
taxpayer, to institute action for the enforcement of the 64691  
liability, the attorney general, or the taxpayer in the taxpayer's 64692  
own name, may institute the action on behalf of the subdivision. 64693

(H) This section does not require the attachment of an 64694  
additional certificate beyond that required by section 5705.41 of 64695  
the Revised Code for current payrolls of, or contracts of 64696  
employment with, ~~regular~~ any employees or officers of the school 64697  
district. 64698

This section does not require the attachment of a certificate 64699  
to a temporary appropriation measure if all of the following 64700  
apply: 64701

(1) The amount appropriated does not exceed twenty-five per 64702  
cent of the total amount from all sources available for 64703  
expenditure from any fund during the preceding fiscal year; 64704

(2) The measure will not be in effect on or after the 64705  
thirtieth day following the earliest date on which the district 64706  
may pass an annual appropriation measure; 64707

(3) An amended official certificate of estimated resources 64708  
for the current year, if required, has not been certified to the 64709  
board of education under division (B) of section 5705.36 of the 64710  
Revised Code. 64711

**Sec. 5709.20.** As used in sections 5709.20 to 5709.27 of the 64712  
Revised Code: 64713

(A) "Air contaminant" means particulate matter, dust, fumes, 64714  
gas, mist, smoke, vapor, or odorous substances, or any combination 64715  
thereof. 64716

(B) "Air pollution control facility" means any property 64717  
designed, constructed, or installed for the primary purpose of 64718  
eliminating or reducing the emission of, or ground level 64719  
concentration of, air contaminants ~~which~~ generated at an 64720  
industrial or commercial plant or site that renders air harmful or 64721  
inimical to the public health or to property within this state, or 64722  
such property installed on or after November 1, 1993, at a 64723  
petroleum refinery for the primary purpose of eliminating or 64724  
reducing substances within fuel that otherwise would create the 64725  
emission of air contaminants upon the combustion of fuel. 64726

(C) "Energy conversion" means the conversion of fuel or power 64727  
usage and consumption from natural gas to an alternate fuel or 64728

power source other than propane, butane, naphtha, or fuel oil; or 64729  
the conversion of fuel or power usage and consumption from fuel 64730  
oil to an alternate fuel or power source other than natural gas, 64731  
propane, butane, or naphtha. 64732

(D) "Energy conversion facility" means any additional 64733  
property or equipment designed, constructed, or installed after 64734  
December 31, 1974, for use at an industrial or commercial plant or 64735  
site for the primary purpose of energy conversion. 64736

(E) "Exempt facility" means any of the facilities defined in 64737  
division (B), (D), (F), (I), (K), or (L) of this section for which 64738  
an exempt facility certificate is issued pursuant to section 64739  
5709.21 or for which a certificate remains valid under section 64740  
5709.201 of the Revised Code. 64741

(F) "Noise pollution control facility" means any property 64742  
designed, constructed, or installed ~~in or on~~ for use at an 64743  
industrial or commercial plant or site for the primary purpose of 64744  
eliminating or reducing, at that plant or site, the emission of 64745  
sound which is harmful or inimical to persons or property, or 64746  
materially reduces the quality of the environment, as shall be 64747  
determined by the director of environmental protection within such 64748  
standards for noise pollution control facilities and standards for 64749  
environmental noise necessary to protect public health and welfare 64750  
as may be promulgated by the United States environmental 64751  
protection agency. In the absence of such United States 64752  
environmental protection agency standards, the determination shall 64753  
be made in accordance with generally accepted current standards of 64754  
good engineering practice in environmental noise control. 64755

Facilities (G) "Solid waste" means such unwanted residual 64756  
solid or semi-solid material as results from industrial 64757  
operations, including those of public utility companies, and 64758  
commercial, distribution, research, agricultural, and community 64759  
operations, including garbage, combustible or noncombustible, 64760

street dirt, and debris. 64761

(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose. 64762  
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(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. 64765  
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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. 64769  
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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. 64773  
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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 an industrial water pollution control 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 64777  
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this division. 64792

(M) Property designed, constructed, installed, used, or 64793  
placed in operation ~~solely~~ primarily for the safety, health, 64794  
protection, or benefit, or any combination thereof, of personnel, 64795  
~~or by~~ of a business ~~solely for its,~~ or primarily for a business's 64796  
own benefit, ~~are not pollution control facilities~~ is not an 64797  
"exempt facility." 64798

**Sec. 5709.201.** (A) Except as provided in divisions (C)(4)(a) 64799  
and (c) of section 5709.22 and division (F) of section 5709.25 of 64800  
the Revised Code, a certificate issued under section 5709.21, 64801  
5709.31, 5709.46, or 6111.31 of the Revised Code that was valid 64802  
and in effect on the effective date of this section shall continue 64803  
in effect subject to the law as it existed before that effective 64804  
date. Division (C)(4)(b) of section 5709.22 of the Revised Code 64805  
does not apply to any certificate issued by the tax commissioner 64806  
before July 1, 2003. 64807

(B) Any applications pending on the effective date of this 64808  
section for which a certificate had not been issued on or before 64809  
that effective date under section 6111.31 of the Revised Code 64810  
shall be transferred to the tax commissioner for further 64811  
administering. Sections 5709.20 to 5709.27 of the Revised Code 64812  
apply to such pending applications, excluding the requirement of 64813  
section 5709.212 of the Revised Code that applicants must pay the 64814  
fee. 64815

(C) For applications pending on the effective date of this 64816  
section, division (D) of section 5709.25 of the Revised Code 64817  
allowing the commissioner to assess any additional tax 64818  
notwithstanding any other time limitations imposed by law on the 64819  
denied portion of the applicant's claim applies only to tax 64820  
periods that would otherwise be open to assessment on that 64821  
effective date. 64822

Sec. 5709.21. (A) As used in this section: 64823

(1) "Exclusive property" means real and personal property that is installed, used, and necessary for the operation of an exempt facility, and that is not auxiliary property unless the auxiliary property exempt cost equals or exceeds eighty-five per cent of the total cost of the property. 64824  
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(2) "Auxiliary property" means personal 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 with an auxiliary property exempt cost that is less than or equal to fifteen per cent of the total cost of such property. 64829  
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(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows: 64836  
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(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. 64838  
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(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. 64845  
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(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. 64848  
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(B) Application for an air or noise pollution control exempt 64852

facility certificate shall be filed with the tax commissioner in 64853  
such manner and in such form as ~~may be~~ prescribed by ~~regulations~~ 64854  
~~issued by the tax commissioner and~~. The application shall contain 64855  
plans and specifications of the ~~structure or structures~~ property, 64856  
including all materials incorporated ~~and or~~ to be incorporated 64857  
therein and their associated costs, and a descriptive list of all 64858  
equipment acquired or to be acquired by the applicant for the 64859  
~~purpose of air or noise pollution control~~ exempt facility and its 64860  
associated cost. If the commissioner, ~~after obtaining the opinion~~ 64861  
~~of the director of environmental protection~~, finds that the 64862  
~~proposed facility~~ property was designed primarily ~~for the control~~ 64863  
~~of air or noise pollution as defined in section 5709.20 of the~~ 64864  
~~Revised Code, as an exempt facility~~ and is suitable and reasonably 64865  
adequate for such purpose and is intended for such purpose, ~~he~~ the 64866  
commissioner shall enter a finding and issue a certificate to that 64867  
effect. ~~Said certificate shall permit tax exemption pursuant to~~ 64868  
~~section 5709.25 of the Revised Code only for that portion of such~~ 64869  
~~pollution control facility or that part used exclusively for air~~ 64870  
~~or noise pollution control~~. The effective date of ~~said~~ the 64871  
certificate shall be the date ~~of the making of the application~~ was 64872  
made for such certificate or the date of the construction of the 64873  
facility, whichever is earlier; ~~provided, that if such application~~ 64874  
~~relates to facilities placed in operation or capable of operation~~ 64875  
~~prior to October 2, 1969, the effective date of the certificate~~ 64876  
~~shall be the date of the application.~~ 64877

Nothing in this section shall be construed to extend the time 64878  
period to file, to keep the time period to file open, or supersede 64879  
the requirement of filing a tax refund or other tax reduction 64880  
request in the manner and within the time prescribed by law. 64881

(C)(1) Except as provided in division (C)(2) of this section, 64882  
the certificate shall permit tax exemption pursuant to section 64883  
5709.25 of the Revised Code only for that portion of such exempt 64884

facility that is exclusive property used for a purpose enumerated 64885  
in section 5709.20 of the Revised Code. 64886

(2) Auxiliary property shall be permitted a partial tax 64887  
exemption under section 5709.25 of the Revised Code, but only to 64888  
the extent allowed pursuant to division (A)(3) of this section. 64889

(D) The tax commissioner may allow an applicant to file one 64890  
application that applies to more than one exempt facility that are 64891  
the same or substantially similar, so long as such facilities are 64892  
located within the same county. 64893

**Sec. 5709.211.** (A) Before issuing an exempt facility 64894  
certificate pursuant to section 5709.21 of the Revised Code, the 64895  
tax commissioner shall provide a copy of a properly completed 64896  
application to, and obtain the opinion of, the director of 64897  
environmental protection in the case of an exempt facility 64898  
described in division (B), (F), or (L) of section 5709.20 of the 64899  
Revised Code, or provide a copy of the application to, and obtain 64900  
the opinion of, the director of development in the case of an 64901  
application for an exempt facility described in division (D), (I), 64902  
or (K) of section 5709.20 of the Revised Code. The opinion shall 64903  
provide the commissioner with a recommendation of whether the 64904  
property is primarily designed, constructed, installed, and used 64905  
as an exempt facility. The applicant shall provide additional 64906  
information upon request by the tax commissioner, the director of 64907  
environmental protection, or the director of development, and 64908  
allow them to inspect the property listed in the application for 64909  
the purposes of sections 5709.20 to 5709.27 of the Revised Code. 64910  
The tax commissioner shall provide to the applicant a copy of the 64911  
opinion issued by either the director of environmental protection 64912  
or the director of the department of development. 64913

(B) The opinions of the director of the environmental 64914  
protection agency and the director of development under division 64915

(A) of this section or division (C)(4) of section 5709.22 of the Revised Code are not final actions or orders subject to appeal. 64916  
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Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. One-half of the fee received with applications for exempt facility certificates shall be credited to the exempt facility administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering sections 5709.20 to 5709.27 of the Revised Code. If the director of environmental protection is required to provide the opinion for an application, one-half of the fee shall be credited to the clean air fund created in section 3704.035 of the Revised Code for use in administering section 5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. If the application is for an industrial water pollution control facility, one-half of the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of development is required to provide the opinion for an application, one-half of the fee for each exempt facility application shall be credited to the exempt facility inspection fund, which is hereby created in the state treasury, for appropriation to the department of development for use in administering section 5709.211 of the Revised Code. 64918  
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An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is 64943  
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not issued or is withdrawn. Any application submitted without 64948  
payment of the fee shall be deemed incomplete until the fee is 64949  
paid. 64950

(B) The application fee imposed under division (A) of this 64951  
section for a jointly owned facility shall be equal to one-half of 64952  
one per cent of the total exempt facility project cost, not to 64953  
exceed two thousand dollars for each facility that is the subject 64954  
of the application. 64955

**Sec. 5709.22.** ~~Before issuing any certificate the tax~~ 64956  
~~commissioner shall give notice in writing by mail to the auditor~~ 64957  
~~of the county in which such facilities are located, and shall~~ 64958  
~~afford to the applicant and to the auditor an opportunity for a~~ 64959  
~~hearing. On like notice to the applicant and opportunity for a~~ 64960  
~~hearing, the commissioner shall on his~~ (A) After receiving an 64961  
opinion from the director of environmental protection or the 64962  
director of development, the tax commissioner shall promptly 64963  
ascertain if an application filed under section 5709.21 of the 64964  
Revised Code shall be allowed or disallowed in whole or in part. 64965  
The commissioner shall give written notice of the proposed finding 64966  
to the applicant and the county auditor of the county in which the 64967  
facility described in the application is located. Within sixty 64968  
days after sending written notice of the proposed finding, the 64969  
applicant or the county auditor may file a request for 64970  
reconsideration, in writing, to the commissioner and may request 64971  
that the commissioner conduct a hearing on the application. If no 64972  
request for reconsideration is filed, the commissioner's proposed 64973  
findings shall be final and, if applicable, the commissioner shall 64974  
issue an exempt facility certificate, which shall not be subject 64975  
to appeal pursuant to section 5717.02 of the Revised Code. 64976

(B) If a reconsideration of the tax commissioner's proposed 64977  
finding is requested by the applicant or the county auditor, the 64978

commissioner shall notify the applicant and the auditor of the 64979  
time and place of the hearing, which the commissioner may continue 64980  
from time to time as the commissioner finds necessary. The 64981  
commissioner also shall notify the environmental protection agency 64982  
or department of development, as applicable, of the hearing. The 64983  
environmental protection agency or the department of development 64984  
shall participate in the hearing if requested in writing by the 64985  
commissioner, the applicant, or the county auditor. After 64986  
conducting the hearing, the commissioner shall issue a final 64987  
determination, with a copy of it served on the applicant and 64988  
applicable county auditors in the manner prescribed by section 64989  
5703.37 of the Revised Code. The final determination is subject to 64990  
appeal pursuant to section 5717.02 of the Revised Code. Once all 64991  
appeals are exhausted, the commissioner shall issue, if 64992  
applicable, the exempt facility certificate based on the outcome 64993  
of the appeal. 64994

(C) The tax commissioner, on the commissioner's own 64995  
initiative or on complaint by the county auditor of ~~the~~ any county 64996  
in which any property to which ~~such air or noise pollution control~~ 64997  
~~the exempt facility~~ certificate relates is located, shall revoke 64998  
~~such air or noise pollution control certificate~~ whenever any of 64999  
~~the following appears~~ the certificate, or modify it by restricting 65000  
its operation, if it appears to the commissioner that any of the 65001  
following has occurred: 65002

~~(A)~~(1) The certificate was obtained by fraud or 65003  
misrepresentation; 65004

~~(B)~~(2) The holder of the certificate has failed substantially 65005  
to proceed with the construction, reconstruction, installation, or 65006  
acquisition of ~~air or noise pollution control facilities~~ an exempt 65007  
facility; 65008

~~(C)~~(3) The ~~structure or equipment or both~~ property to which 65009  
the certificate relates has ceased to be used ~~for the primary~~ 65010

~~purpose of pollution control and is being used for a different  
purpose.~~ 65011  
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~~Provided, that where the circumstances so require, the  
commissioner in lieu of revoking such certificate may modify the  
same by restricting its operations as an exempt facility;~~ 65013  
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(4) The tax commissioner issued the certificate in error. As  
used in this section, "error" means any of the following: 65016  
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(a) A clerical or mathematical mistake; 65018

(b) When the commissioner agrees with an opinion from the  
director of environmental protection or the director of  
development that a certificate should not have been issued; 65019  
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(c) When the tax commissioner determines that the issuance of  
the certificate may have been improper as the result of a final  
adjudication by the board of tax appeals, or by a court with  
jurisdiction on appeal from that board, that is adverse to the  
original exempt status of the facility, regardless of whether the  
holder of the certificate was a party to such adjudication. 65022  
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(D) If the revocation or modification of a certificate under  
division (C)(4) of this section is an action found to be frivolous  
for the purposes of section 5703.54 of the Revised Code the  
certificate holder may claim damages as provided under division  
(B) of that section. 65028  
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~~On the mailing of notice of the action of the commissioner  
revoking or modifying an air or noise pollution control  
certificate as provided in section 5709.23 of the Revised Code,  
such~~ (E) Upon service of notice certificate to the holder of an  
exempt facility certificate, in the manner provided in section  
5703.37 of the Revised Code, of the tax commissioner's revocation  
or modification of the certificate under division (C) of this  
section, the certificate shall cease to be in force or shall  
remain in force only as modified, as the case may require. The 65033  
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notice is subject to appeal under section 5717.02 of the Revised 65042  
Code. Once all appeals are exhausted, the commissioner shall issue 65043  
a modified certificate, if applicable, and the holder of the 65044  
certificate shall be allowed to claim a refund within one hundred 65045  
eighty days, notwithstanding any other time limitation provided by 65046  
law of the taxes paid as a result of the certificate being revoked 65047  
or modified. 65048

**Sec. 5709.23.** (A) As soon as is practicable after receiving 65049  
an application for an exempt facility certificate, the tax 65050  
commissioner shall provide a copy of the application and any 65051  
accompanying documentation to the county auditor of the county in 65052  
which the facility is located. The copy shall be accompanied by a 65053  
statement showing an estimate of what the assessed value of the 65054  
facility would be, based on the appropriate assessment percentage, 65055  
if the facility were to be taxable, and an estimate of the taxes 65056  
that would be chargeable against the facility computed on the 65057  
basis of the rate of taxation in the taxing district in the year 65058  
in which the application is received. Within sixty days after 65059  
receiving such a statement, the county auditor shall issue a 65060  
notice to the taxing authority of each taxing unit in which the 65061  
facility is or is to be located. The notice shall state that an 65062  
application for an exempt facility certificate has been filed for 65063  
the facility; the estimated assessed value of the facility shown 65064  
on the statement; the annual amount of taxes that would be charged 65065  
and payable on that value at the current rate of taxation in 65066  
effect in the taxing unit; and that, if approved, the application 65067  
entitles the facility to exemption from taxation and the taxing 65068  
unit may be required to refund any taxes on the facility accruing 65069  
after the certificate becomes effective. The tax commissioner 65070  
shall issue an amended statement if, after the original statement 65071  
is issued, the estimate of such assessed value increases or 65072  
decreases by more than ten per cent of the estimated value shown 65073

on the most recently issued statement or amended statement, and 65074  
the county auditor shall issue an amended notice reflecting such 65075  
change. 65076

(B) Upon request by the county auditor of the county in which 65077  
the exempt facility described in the application is located, the 65078  
tax commissioner shall provide the county auditor with any 65079  
documents submitted with the opinion of the director of 65080  
environmental protection or director of development, including a 65081  
copy of opinion. 65082

(C) Any documents, statements, and notices provided for under 65083  
this section are solely for the purpose of notifying taxing 65084  
authorities of the existence of an exempt facility application and 65085  
the potential for a refund of taxes paid on an exempt facility 65086  
before a tax exemption certificate is issued. Such documents, 65087  
statements, and notices do not constitute an assessment that is 65088  
subject to a petition for reassessment nor are such documents, 65089  
statements, and notices appealable under section 5717.02 of the 65090  
Revised Code by any person. 65091

(D) The documents, statements, and notices provided by the 65092  
tax commissioner under this section are subject to all applicable 65093  
confidentiality provisions of law. 65094

Sec. 5709.24. The tax commissioner may adopt rules to 65095  
administer sections 5709.20 to 5709.27 of the Revised Code. 65096

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ 65097  
~~exempt facility~~ certificate is issued ~~on a pollution control~~ 65098  
~~facility~~, the transfer of tangible personal property to the holder 65099  
of the certificate, whether such transfer takes place before or 65100  
after the issuance of the certificate, shall not be considered a 65101  
"sale" of such tangible personal property for the purpose of the 65102  
sales tax, or a "use" for the purpose of the use tax, if the 65103

tangible personal property is to be or was a material or part to 65104  
be incorporated into an ~~air or noise pollution control~~ exempt 65105  
facility ~~as defined in section 5709.20 of the Revised Code.~~ 65106

(B) For the period subsequent to the effective date of an ~~air~~ 65107  
~~or noise pollution control~~ exempt facility certificate and 65108  
continuing for so long as the certificate is in force, no 65109  
~~pollution control~~ exempt facility or certified portion thereof 65110  
shall be considered to be either of the following: 65111

(1) An improvement on the land on which the ~~same~~ exempt 65112  
facility is located for the purpose of real property taxation; 65113

(2) As "used in business" for the purpose of personal 65114  
property taxation; 65115

~~(3) As an asset of any corporation in determining the value 65116  
of its issued and outstanding shares or the value of the property 65117  
owned and used by it in this state for the purpose of the 65118  
franchise tax. 65119~~

(C)(1) The tax commissioner, upon receiving a properly 65120  
completed application for an exempt facility certificate, may 65121  
allow the applicant to claim the exemption provided by this 65122  
section before the commissioner issues the certificate. The 65123  
applicant is entitled to the exemption unless the commissioner 65124  
notifies the applicant otherwise by serving notice upon the 65125  
applicant in the manner prescribed by section 5703.37 of the 65126  
Revised Code. 65127

(2) A taxpayer whose tangible personal property is subject to 65128  
taxation under Chapter 5727. of the Revised Code shall notify the 65129  
commissioner in writing of any property the applicant does not 65130  
want the commissioner to exclude from assessment. The notice shall 65131  
be provided before the date the commissioner issues the 65132  
preliminary assessment under section 5727.23 of the Revised Code. 65133

(D)(1) Notwithstanding any other time limitations imposed by 65134

law, the commissioner may assess any additional tax or may assess 65135  
any additional taxable property, including any applicable 65136  
interest, on the denied portion of the applicant's claim for an 65137  
exempt facility that the applicant claimed prior to the exempt 65138  
facility certificate being issued or the application being denied. 65139  
No assessment shall be made pursuant to this division after one 65140  
hundred eighty days from the date the commissioner mails the 65141  
exempt facility certificate or notice of the denial of the exempt 65142  
facility certificate pursuant to section 5709.22 of the Revised 65143  
Code. Nothing in this section shall prohibit an assessment that 65144  
otherwise may be timely made by law. 65145

(2) Assessments issued pursuant to division (D)(1) of this 65146  
section shall be issued as amended preliminary assessment 65147  
certificates under section 5711.31 of the Revised Code for 65148  
personal property tax, as amended preliminary assessment 65149  
certificates under section 5727.23 of the Revised Code for public 65150  
utility tax, and as assessments under section 5733.11 of the 65151  
Revised Code for corporation franchise tax, section 5739.13 of the 65152  
Revised Code for sales tax, and section 5741.11 of the Revised 65153  
Code for use tax, and are subject to the same appeal requirements 65154  
as defined in those sections. 65155

(3) Nothing in division (D) of this section allows the tax 65156  
commissioner, after the expiration of the time limitation, to 65157  
issue an assessment referenced in division (D)(2) of this section 65158  
that increases any tax beyond the amount claimed by the applicant 65159  
as an exempt facility. 65160

(4) If an assessment is issued for only the denied portion of 65161  
the application for an exempt facility, the only issue the 65162  
applicant is permitted to raise on appeal of the assessment 65163  
referenced in division (D)(2) of this section is that of the 65164  
taxable property or transaction constituting the denied portion of 65165  
the applicant's claim for an exempt facility. 65166

(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 property, net of retirements for similar property, does not exceed five hundred thousand dollars during any calendar year. The fee imposed under section 5709.212 of the Revised Code for applications filed as a result of this division shall be five hundred dollars.

(F) If, as the result of a revaluation due to sale or bankruptcy or any other reason, the book value of property that is the subject of an exempt facility certificate is changed from the book value at the time of the original issuance of the certificate, the amount of exemption available to the owner is limited to the percentage resulting from the ratio of the historical cost of the property that is the subject of the exempt facility certificate to the historic cost of all tangible personal property and real property of the owner located at the same location as the property subject to the exempt facility certificate. If the result of using this ratio is greater than the original cost, then acceptable reasons for allowing such greater cost must be established with supporting documentation in order to qualify for the exemption above the original cost.

(G) After two years from the date the tax commissioner receives an application, the applicant may request in writing that the tax commissioner take final action on the pending application. Within ten days after receiving such a request, the tax commissioner shall issue a proposed finding, under section 5709.22 of the Revised Code, if the application is allowed in whole or in

part. Otherwise, the tax commissioner shall issue a final 65199  
determination denying the issuance of the certificate, which is a 65200  
final determination appealable under section 5717.02 of the 65201  
Revised Code. 65202

**Sec. 5709.26.** ~~When an air or noise pollution control exempt~~ 65203  
~~facility~~ certificate is revoked ~~because obtained by fraud or~~ 65204  
~~misrepresentation or modified for the reason stated in division~~ 65205  
(C)(1) of section 5709.22 of the Revised Code, all taxes which 65206  
that would have been payable had no certificate been issued shall 65207  
be assessed with ~~maximum~~ penalties and interest prescribed by law 65208  
applicable thereto dating to when the exemption was first allowed. 65209  
Notwithstanding any other time limitations imposed by law, if the 65210  
certificate is revoked or modified under division (C)(2), (3), or 65211  
(4) of section 5709.22 of the Revised Code, all taxes that would 65212  
have been payable had no certificate existed as of the first day 65213  
of January of the calendar year in which the certificate was 65214  
revoked or modified are subject to assessment. 65215

**Sec. 5709.27.** In the event of the sale, lease, or other 65216  
transfer of an ~~air or noise pollution control exempt~~ facility, not 65217  
involving a different location or use, the holder of ~~an air or~~ 65218  
~~noise pollution control~~ the exempt facility certificate ~~for such~~ 65219  
~~facility may shall~~ transfer the certificate by written instrument 65220  
to the person who, except for the transfer of the certificate, 65221  
would be obligated to pay taxes on ~~such the~~ facility. The 65222  
transferee shall become the holder of the certificate and shall 65223  
have all the rights to exemption from taxes ~~which were~~ granted to 65224  
the former holder or holders, effective as of the date of transfer 65225  
of the facility or the date of transfer of the certificate, 65226  
whichever is earlier. The transferee shall promptly give written 65227  
notice of the effective date of the transfer, together with a copy 65228  
of the instrument of transfer, to the tax commissioner and the 65229

county auditor of the county in which the facility is located. 65230  
Upon request, the commissioner may provide the transferee with any 65231  
information the commissioner possesses related to the issuance of 65232  
the exempt facility certificate. 65233

**Sec. 5709.61.** As used in sections 5709.61 to 5709.69 of the 65234  
Revised Code: 65235

(A) "Enterprise zone" or "zone" means any of the following: 65236

(1) An area with a single continuous boundary designated in 65237  
the manner set forth in section 5709.62 or 5709.63 of the Revised 65238  
Code and certified by the director of development as having a 65239  
population of at least four thousand according to the best and 65240  
most recent data available to the director and having at least two 65241  
of the following characteristics: 65242

(a) It is located in a municipal corporation defined by the 65243  
United States office of management and budget as a central city of 65244  
a metropolitan statistical area or in a city designated as an 65245  
urban cluster in a rural statistical area; 65246

(b) It is located in a county designated as being in the 65247  
"Appalachian region" under the "Appalachian Regional Development 65248  
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 65249

(c) Its average rate of unemployment, during the most recent 65250  
twelve-month period for which data are available, is equal to at 65251  
least one hundred twenty-five per cent of the average rate of 65252  
unemployment for the state of Ohio for the same period; 65253

(d) There is a prevalence of commercial or industrial 65254  
structures in the area that are vacant or demolished, or are 65255  
vacant and the taxes charged thereon are delinquent, and 65256  
certification of the area as an enterprise zone would likely 65257  
result in the reduction of the rate of vacant or demolished 65258  
structures or the rate of tax delinquency in the area; 65259

(e) The population of all census tracts in the area, 65260  
according to the federal census of 1990, decreased by at least ten 65261  
per cent between the years 1970 and 1990; 65262

(f) At least fifty-one per cent of the residents of the area 65263  
have incomes of less than eighty per cent of the median income of 65264  
residents of the municipal corporation or municipal corporations 65265  
in which the area is located, as determined in the same manner 65266  
specified under section 119(b) of the "Housing and Community 65267  
Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as 65268  
amended; 65269

(g) The area contains structures previously used for 65270  
industrial purposes, but currently not so used due to age, 65271  
obsolescence, deterioration, relocation of the former occupant's 65272  
operations, or cessation of operations resulting from unfavorable 65273  
economic conditions either generally or in a specific economic 65274  
sector; 65275

(h) It is located within one or more adjacent city, local, or 65276  
exempted village school districts, the income-weighted tax 65277  
capacity of each of which is less than seventy per cent of the 65278  
average of the income-weighted tax capacity of all city, local, or 65279  
exempted village school districts in the state according to the 65280  
most recent data available to the director from the department of 65281  
taxation. 65282

The director of development shall adopt rules in accordance 65283  
with Chapter 119. of the Revised Code establishing conditions 65284  
constituting the characteristics described in divisions (A)(1)(d), 65285  
(g), and (h) of this section. 65286

If an area could not be certified as an enterprise zone 65287  
unless it satisfied division (A)(1)(g) of this section, the 65288  
legislative authority may enter into agreements in that zone under 65289  
section 5709.62, 5709.63, or 5709.632 of the Revised Code only if 65290

such agreements result in the development of the facilities 65291  
described in that division, the parcel of land on which such 65292  
facilities are situated, or adjacent parcels. The director of 65293  
development annually shall review all agreements in such zones to 65294  
determine whether the agreements have resulted in such 65295  
development; if the director determines that the agreements have 65296  
not resulted in such development, the director immediately shall 65297  
revoke certification of the zone and notify the legislative 65298  
authority of such revocation. Any agreements entered into prior to 65299  
revocation under this paragraph shall continue in effect for the 65300  
period provided in the agreement. 65301

(2) An area with a single continuous boundary designated in 65302  
the manner set forth in section 5709.63 of the Revised Code and 65303  
certified by the director of development as: 65304

(a) Being located within a county that contains a population 65305  
of three hundred thousand or less; 65306

(b) Having a population of at least one thousand according to 65307  
the best and most recent data available to the director; 65308

(c) Having at least two of the characteristics described in 65309  
divisions (A)(1)(b) to (h) of this section. 65310

(3) An area with a single continuous boundary designated in 65311  
the manner set forth under division (A)(1) of section 5709.632 of 65312  
the Revised Code and certified by the director of development as 65313  
having a population of at least four thousand, or under division 65314  
(A)(2) of that section and certified as having a population of at 65315  
least one thousand, according to the best and most recent data 65316  
available to the director. 65317

(B) "Enterprise" means any form of business organization 65318  
including, but not limited to, any partnership, sole 65319  
proprietorship, or corporation, including an S corporation as 65320  
defined in section 1361 of the Internal Revenue Code and any 65321

corporation that is majority work-owned either directly through 65322  
the ownership of stock or indirectly through participation in an 65323  
employee stock ownership plan. 65324

(C) "Facility" means an enterprise's place of business in a 65325  
zone, including land, buildings, machinery, equipment, and other 65326  
materials, except inventory, used in business. "Facility" includes 65327  
land, buildings, machinery, production and station equipment, 65328  
other equipment, and other materials, except inventory, used in 65329  
business to generate electricity, provided that, for purposes of 65330  
sections 5709.61 to 5709.69 of the Revised Code, the value of the 65331  
property at such a facility shall be reduced by the value, if any, 65332  
that is not apportioned under section 5727.15 of the Revised Code 65333  
to the taxing district in which the facility is physically 65334  
located. In the case of such a facility that is physically located 65335  
in two adjacent taxing districts, the property located in each 65336  
taxing district constitutes a separate facility. 65337

"Facility" does not include any portion of an enterprise's 65338  
place of business used primarily for making retail sales, unless 65339  
the place of business is located in an impacted city as defined in 65340  
section 1728.01 of the Revised Code. 65341

(D) "Vacant facility" means a facility that has been vacant 65342  
for at least ninety days immediately preceding the date on which 65343  
an agreement is entered into under section 5709.62 or 5709.63 of 65344  
the Revised Code. 65345

(E) "Expand" means to make expenditures to add land, 65346  
buildings, machinery, equipment, or other materials, except 65347  
inventory, to a facility that equal at least ten per cent of the 65348  
market value of the facility prior to such expenditures, as 65349  
determined for the purposes of local property taxation. 65350

(F) "Renovate" means to make expenditures to alter or repair 65351  
a facility that equal at least fifty per cent of the market value 65352

of the facility prior to such expenditures, as determined for the 65353  
purposes of local property taxation. 65354

(G) "Occupy" means to make expenditures to alter or repair a 65355  
vacant facility equal to at least twenty per cent of the market 65356  
value of the facility prior to such expenditures, as determined 65357  
for the purposes of local property taxation. 65358

(H) "Project site" means all or any part of a facility that 65359  
is newly constructed, expanded, renovated, or occupied by an 65360  
enterprise. 65361

(I) "Project" means any undertaking by an enterprise to 65362  
establish a facility or to improve a project site by expansion, 65363  
renovation, or occupancy. 65364

(J) "Position" means the position of one full-time employee 65365  
performing a particular set of tasks and duties. 65366

(K) "Full-time employee" means an individual who is employed 65367  
for consideration by an enterprise for at least thirty-five hours 65368  
a week, or who renders any other standard of service generally 65369  
accepted by custom or specified by contract as full-time 65370  
employment. 65371

(L) "New employee" means a full-time employee first employed 65372  
by an enterprise at a facility that is a project site after the 65373  
enterprise enters an agreement under section 5709.62 or 5709.63 of 65374  
the Revised Code. "New employee" does not include an employee if, 65375  
immediately prior to being employed by the enterprise, the 65376  
employee was employed by an enterprise that is a related member or 65377  
predecessor enterprise of that enterprise. 65378

(M) "Unemployed person" means any person who is totally 65379  
unemployed in this state, as that term is defined in division (M) 65380  
of section 4141.01 of the Revised Code, for at least ten 65381  
consecutive weeks immediately preceding that person's employment 65382  
at a facility that is a project site, or who is so unemployed for 65383

at least twenty-six of the fifty-two weeks immediately preceding 65384  
that person's employment at such a facility. 65385

(N) "JTPA eligible employee" means any individual who is 65386  
eligible for employment or training under the "Job Training 65387  
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 65388  
amended. 65389

(O) "First used in business" means that the property referred 65390  
to has not been used in business in this state by the enterprise 65391  
that owns it, or by an enterprise that is a related member or 65392  
predecessor enterprise of such an enterprise, other than as 65393  
inventory, prior to being used in business at a facility as the 65394  
result of a project. 65395

(P) "Training program" means any noncredit training program 65396  
or course of study that is offered by any state college or 65397  
university; university branch district; community college; 65398  
technical college; nonprofit college or university certified under 65399  
section 1713.02 of the Revised Code; school district; joint 65400  
vocational school district; school registered and authorized to 65401  
offer programs under section 3332.05 of the Revised Code; an 65402  
entity administering any federal, state, or local adult education 65403  
and training program; or any enterprise; and that meets all of the 65404  
following requirements: 65405

(1) It is approved by the director of development; 65406

(2) It is established or operated to satisfy the need of a 65407  
particular industry or enterprise for skilled or semi-skilled 65408  
employees; 65409

(3) An individual is required to complete the course or 65410  
program before filling a position at a project site. 65411

(Q) "Development" means to engage in the process of clearing 65412  
and grading land, making, installing, or constructing water 65413  
distribution systems, sewers, sewage collection systems, steam, 65414

gas, and electric lines, roads, curbs, gutters, sidewalks, storm 65415  
drainage facilities, and construction of other facilities or 65416  
buildings equal to at least fifty per cent of the market value of 65417  
the facility prior to the expenditures, as determined for the 65418  
purposes of local property taxation. 65419

(R) "Large manufacturing facility" means a single Ohio 65420  
facility that employed an average of at least one thousand 65421  
individuals during the five calendar years preceding an agreement 65422  
authorized under division (C)(3) of section 5709.62 or division 65423  
(B)(2) of section 5709.63 of the Revised Code. For purposes of 65424  
this division, both of the following apply: 65425

(1) A single Ohio manufacturing facility employed an average 65426  
of at least one thousand individuals during the five calendar 65427  
years preceding entering into such an agreement if one-fifth of 65428  
the sum of the number of employees employed on the highest 65429  
employment day during each of the five calendar years equals or 65430  
exceeds one thousand. 65431

(2) The highest employment day is the day or days during a 65432  
calendar year on which the number of employees employed at a 65433  
single Ohio manufacturing facility was greater than on any other 65434  
day during the calendar year. 65435

(S) "Business cycle" means the cycle of business activity 65436  
usually regarded as passing through alternating stages of 65437  
prosperity and depression. 65438

(T) "Making retail sales" means the effecting of 65439  
point-of-final-purchase transactions at a facility open to the 65440  
consuming public, wherein one party is obligated to pay the price 65441  
and the other party is obligated to provide a service or to 65442  
transfer title to or possession of the item sold. 65443

(U) "Environmentally contaminated" means that hazardous 65444  
substances exist at a facility under conditions that have caused 65445

or would cause the facility to be identified as contaminated by 65446  
the state or federal environmental protection agency. These may 65447  
include facilities located at sites identified in the master sites 65448  
list or similar database maintained by the state environmental 65449  
protection agency if the sites have been investigated by the 65450  
agency and found to be contaminated. 65451

(V) "Remediate" means to make expenditures to clean up an 65452  
environmentally contaminated facility so that it is no longer 65453  
environmentally contaminated that equal at least ten per cent of 65454  
the real property market value of the facility prior to such 65455  
expenditures as determined for the purposes of property taxation. 65456

(W) "Related member" has the same meaning as defined in 65457  
section 5733.042 of the Revised Code without regard to division 65458  
(B) of that section, except that it is used with respect to an 65459  
enterprise rather than a taxpayer. 65460

(X) "Predecessor enterprise" means an enterprise from which 65461  
the assets or equity of another enterprise has been transferred, 65462  
which transfer resulted in the full or partial nonrecognition of 65463  
gain or loss, or resulted in a carryover basis, both as determined 65464  
by rule adopted by the tax commissioner. 65465

(Y) "Successor enterprise" means an enterprise to which the 65466  
assets or equity of another enterprise has been transferred, which 65467  
transfer resulted in the full or partial nonrecognition of gain or 65468  
loss, or resulted in a carryover basis, both as determined by rule 65469  
adopted by the tax commissioner. 65470

**Sec. 5709.62.** (A) In any municipal corporation that is 65471  
defined by the United States office of management and budget as a 65472  
central city of a metropolitan statistical area, or in a city 65473  
designated as an urban cluster in a rural statistical area, the 65474  
legislative authority of the municipal corporation may designate 65475  
one or more areas within its municipal corporation as proposed 65476

enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that

is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five

per cent. For the purpose of obtaining such approval, the 65602  
legislative authority shall deliver to the board of education a 65603  
notice not later than forty-five days prior to approving the 65604  
agreement, excluding Saturdays, Sundays, and legal holidays as 65605  
defined in section 1.14 of the Revised Code. The notice shall 65606  
state the percentage to be exempted, an estimate of the true value 65607  
of the property to be exempted, and the number of years the 65608  
property is to be exempted. The board of education, by resolution 65609  
adopted by a majority of the board, shall approve or disapprove 65610  
the agreement and certify a copy of the resolution to the 65611  
legislative authority not later than fourteen days prior to the 65612  
date stipulated by the legislative authority as the date upon 65613  
which approval of the agreement is to be formally considered by 65614  
the legislative authority. The board of education may include in 65615  
the resolution conditions under which the board would approve the 65616  
agreement, including the execution of an agreement to compensate 65617  
the school district under division (B) of section 5709.82 of the 65618  
Revised Code. The legislative authority may approve the agreement 65619  
at any time after the board of education certifies its resolution 65620  
approving the agreement to the legislative authority, or, if the 65621  
board approves the agreement conditionally, at any time after the 65622  
conditions are agreed to by the board and the legislative 65623  
authority. 65624

If a board of education has adopted a resolution waiving its 65625  
right to approve agreements and the resolution remains in effect, 65626  
approval of an agreement by the board is not required under this 65627  
division. If a board of education has adopted a resolution 65628  
allowing a legislative authority to deliver the notice required 65629  
under this division fewer than forty-five business days prior to 65630  
the legislative authority's approval of the agreement, the 65631  
legislative authority shall deliver the notice to the board not 65632  
later than the number of days prior to such approval as prescribed 65633  
by the board in its resolution. If a board of education adopts a 65634

resolution waiving its right to approve agreements or shortening 65635  
the notification period, the board shall certify a copy of the 65636  
resolution to the legislative authority. If the board of education 65637  
rescinds such a resolution, it shall certify notice of the 65638  
rescission to the legislative authority. 65639

(2) The legislative authority shall comply with section 65640  
5709.83 of the Revised Code unless the board of education has 65641  
adopted a resolution under that section waiving its right to 65642  
receive such notice. 65643

(E) This division applies to zones certified by the director 65644  
of development under this section prior to July 22, 1994. 65645

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 65646  
authority that designated a zone to which this division applies 65647  
may enter into an agreement with an enterprise if the legislative 65648  
authority makes the finding required under that division and 65649  
determines that the enterprise satisfies one of the criteria 65650  
described in divisions (E)(1) to (5) of this section: 65651

(1) The enterprise currently has no operations in this state 65652  
and, subject to approval of the agreement, intends to establish 65653  
operations in the zone; 65654

(2) The enterprise currently has operations in this state 65655  
and, subject to approval of the agreement, intends to establish 65656  
operations at a new location in the zone that would not result in 65657  
a reduction in the number of employee positions at any of the 65658  
enterprise's other locations in this state; 65659

(3) The enterprise, subject to approval of the agreement, 65660  
intends to relocate operations, currently located in another 65661  
state, to the zone; 65662

(4) The enterprise, subject to approval of the agreement, 65663  
intends to expand operations at an existing site in the zone that 65664  
the enterprise currently operates; 65665

(5) The enterprise, subject to approval of the agreement, 65666  
intends to relocate operations, currently located in this state, 65667  
to the zone, and the director of development has issued a waiver 65668  
for the enterprise under division (B) of section 5709.633 of the 65669  
Revised Code. 65670

The agreement shall require the enterprise to agree to 65671  
establish, expand, renovate, or occupy a facility in the zone and 65672  
hire new employees, or preserve employment opportunities for 65673  
existing employees, in return for one or more of the incentives 65674  
described in division (C) of this section. 65675

(F) All agreements entered into under this section shall be 65676  
in the form prescribed under section 5709.631 of the Revised Code. 65677  
After an agreement is entered into under this division, if the 65678  
legislative authority revokes its designation of a zone, or if the 65679  
director of development revokes the zone's certification, any 65680  
entitlements granted under the agreement shall continue for the 65681  
number of years specified in the agreement. 65682

(G) Except as otherwise provided in this division, an 65683  
agreement entered into under this section shall require that the 65684  
enterprise pay an annual fee equal to the greater of one per cent 65685  
of the dollar value of incentives offered under the agreement or 65686  
five hundred dollars; provided, however, that if the value of the 65687  
incentives exceeds two hundred fifty thousand dollars, the fee 65688  
shall not exceed two thousand five hundred dollars. The fee shall 65689  
be payable to the legislative authority once per year for each 65690  
year the agreement is effective on the days and in the form 65691  
specified in the agreement. Fees paid shall be deposited in a 65692  
special fund created for such purpose by the legislative authority 65693  
and shall be used by the legislative authority exclusively for the 65694  
purpose of complying with section 5709.68 of the Revised Code and 65695  
by the tax incentive review council created under section 5709.85 65696  
of the Revised Code exclusively for the purposes of performing the 65697

duties prescribed under that section. The legislative authority 65698  
may waive or reduce the amount of the fee charged against an 65699  
enterprise, but such a waiver or reduction does not affect the 65700  
obligations of the legislative authority or the tax incentive 65701  
review council to comply with section 5709.68 or 5709.85 of the 65702  
Revised Code. 65703

(H) When an agreement is entered into pursuant to this 65704  
section, the legislative authority authorizing the agreement shall 65705  
forward a copy of the agreement to the director of development and 65706  
to the tax commissioner within fifteen days after the agreement is 65707  
entered into. If any agreement includes terms not provided for in 65708  
section 5709.631 of the Revised Code affecting the revenue of a 65709  
city, local, or exempted village school district or causing 65710  
revenue to be foregone by the district, including any compensation 65711  
to be paid to the school district pursuant to section 5709.82 of 65712  
the Revised Code, those terms also shall be forwarded in writing 65713  
to the director of development along with the copy of the 65714  
agreement forwarded under this division. 65715

(I) After an agreement is entered into, the enterprise shall 65716  
file with each personal property tax return required to be filed, 65717  
or annual report required to be filed under section 5727.08 of the 65718  
Revised Code, while the agreement is in effect, an informational 65719  
return, on a form prescribed by the tax commissioner for that 65720  
purpose, setting forth separately the property, and related costs 65721  
and values, exempted from taxation under the agreement. 65722

(J) Enterprises may agree to give preference to residents of 65723  
the zone within which the agreement applies relative to residents 65724  
of this state who do not reside in the zone when hiring new 65725  
employees under the agreement. 65726

(K) An agreement entered into under this section may include 65727  
a provision requiring the enterprise to create one or more 65728  
temporary internship positions for students enrolled in a course 65729

of study at a school or other educational institution in the 65730  
vicinity, and to create a scholarship or provide another form of 65731  
educational financial assistance for students holding such a 65732  
position in exchange for the student's commitment to work for the 65733  
enterprise at the completion of the internship. 65734

**Sec. 5709.63.** (A) With the consent of the legislative 65735  
authority of each affected municipal corporation or of a board of 65736  
township trustees, a board of county commissioners may, in the 65737  
manner set forth in section 5709.62 of the Revised Code, designate 65738  
one or more areas in one or more municipal corporations or in 65739  
unincorporated areas of the county as proposed enterprise zones. A 65740  
board of county commissioners may designate no more than one area 65741  
within a township, or within adjacent townships, as a proposed 65742  
enterprise zone. The board shall petition the director of 65743  
development for certification of the area as having the 65744  
characteristics set forth in division (A)(1) or (2) of section 65745  
5709.61 of the Revised Code as amended by Substitute Senate Bill 65746  
No. 19 of the 120th general assembly. Except as otherwise provided 65747  
in division (D) of this section, on and after July 1, 1994, boards 65748  
of county commissioners shall not enter into agreements under this 65749  
section unless the board has petitioned the director and the 65750  
director has certified the zone under this section as amended by 65751  
that act; however, all agreements entered into under this section 65752  
as it existed prior to July 1, 1994, and the incentives granted 65753  
under those agreements shall remain in effect for the period 65754  
agreed to under those agreements. The director shall make the 65755  
determination in the manner provided under section 5709.62 of the 65756  
Revised Code. Any enterprise wishing to enter into an agreement 65757  
with the board under division (B) or (D) of this section shall 65758  
submit a proposal to the board on the form and accompanied by the 65759  
application fee prescribed under division (B) of section 5709.62 65760  
of the Revised Code. The enterprise shall review and update the 65761

estimates and listings required by the form in the manner required 65762  
under that division. The board may, on a separate form and at any 65763  
time, require any additional information necessary to determine 65764  
whether an enterprise is in compliance with an agreement and to 65765  
collect the information required to be reported under section 65766  
5709.68 of the Revised Code. 65767

(B) If the board of county commissioners finds that an 65768  
enterprise submitting a proposal is qualified by financial 65769  
responsibility and business experience to create and preserve 65770  
employment opportunities in the zone and to improve the economic 65771  
climate of the municipal corporation or municipal corporations or 65772  
the unincorporated areas in which the zone is located and to which 65773  
the proposal applies, the board, on or before ~~June 30, 2004~~ 65774  
October 15, 2009, and with the consent of the legislative 65775  
authority of each affected municipal corporation or of the board 65776  
of township trustees may do either of the following: 65777

(1) Enter into an agreement with the enterprise under which 65778  
the enterprise agrees to establish, expand, renovate, or occupy a 65779  
facility in the zone and hire new employees, or preserve 65780  
employment opportunities for existing employees, in return for the 65781  
following incentives: 65782

(a) When the facility is located in a municipal corporation, 65783  
the board may enter into an agreement for one or more of the 65784  
incentives provided in division (C) of section 5709.62 of the 65785  
Revised Code, subject to division (D) of that section; 65786

(b) When the facility is located in an unincorporated area, 65787  
the board may enter into an agreement for one or more of the 65788  
following incentives: 65789

(i) Exemption for a specified number of years, not to exceed 65790  
ten, of a specified portion, up to sixty per cent, of the assessed 65791  
value of tangible personal property first used in business at a 65792

project site as a result of the agreement. An exemption granted 65793  
pursuant to this division applies to inventory required to be 65794  
listed pursuant to sections 5711.15 and 5711.16 of the Revised 65795  
Code, except, in the instance of an expansion or other situations 65796  
in which an enterprise was in business at the facility prior to 65797  
the establishment of the zone, the inventory that is exempt is 65798  
that amount or value of inventory in excess of the amount or value 65799  
of inventory required to be listed in the personal property tax 65800  
return of the enterprise in the return for the tax year in which 65801  
the agreement is entered into. 65802

(ii) Exemption for a specified number of years, not to exceed 65803  
ten, of a specified portion, up to sixty per cent, of the increase 65804  
in the assessed valuation of real property constituting the 65805  
project site subsequent to formal approval of the agreement by the 65806  
board; 65807

(iii) Provision for a specified number of years, not to 65808  
exceed ten, of any optional services or assistance the board is 65809  
authorized to provide with regard to the project site; 65810

(iv) The incentive described in division (C)(2) of section 65811  
5709.62 of the Revised Code. 65812

(2) Enter into an agreement with an enterprise that plans to 65813  
purchase and operate a large manufacturing facility that has 65814  
ceased operation or has announced its intention to cease 65815  
operation, in return for exemption for a specified number of 65816  
years, not to exceed ten, of a specified portion, up to one 65817  
hundred per cent, of tangible personal property used in business 65818  
at the project site as a result of the agreement, or of real 65819  
property constituting the project site, or both. 65820

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 65821  
this section, the portion of the assessed value of tangible 65822  
personal property or of the increase in the assessed valuation of 65823

real property exempted from taxation under those divisions may 65824  
exceed sixty per cent in any year for which that portion is 65825  
exempted if the average percentage exempted for all years in which 65826  
the agreement is in effect does not exceed fifty per cent, or if 65827  
the board of education of the city, local, or exempted village 65828  
school district within the territory of which the property is or 65829  
will be located approves a percentage in excess of sixty per cent. 65830  
For the purpose of obtaining such approval, the board of 65831  
commissioners shall deliver to the board of education a notice not 65832  
later than forty-five days prior to approving the agreement, 65833  
excluding Saturdays, Sundays, and legal holidays as defined in 65834  
section 1.14 of the Revised Code. The notice shall state the 65835  
percentage to be exempted, an estimate of the true value of the 65836  
property to be exempted, and the number of years the property is 65837  
to be exempted. The board of education, by resolution adopted by a 65838  
majority of the board, shall approve or disapprove the agreement 65839  
and certify a copy of the resolution to the board of commissioners 65840  
not later than fourteen days prior to the date stipulated by the 65841  
board of commissioners as the date upon which approval of the 65842  
agreement is to be formally considered by the board of 65843  
commissioners. The board of education may include in the 65844  
resolution conditions under which the board would approve the 65845  
agreement, including the execution of an agreement to compensate 65846  
the school district under division (B) of section 5709.82 of the 65847  
Revised Code. The board of county commissioners may approve the 65848  
agreement at any time after the board of education certifies its 65849  
resolution approving the agreement to the board of county 65850  
commissioners, or, if the board of education approves the 65851  
agreement conditionally, at any time after the conditions are 65852  
agreed to by the board of education and the board of county 65853  
commissioners. 65854

If a board of education has adopted a resolution waiving its 65855  
right to approve agreements and the resolution remains in effect, 65856

approval of an agreement by the board of education is not required 65857  
under division (C) of this section. If a board of education has 65858  
adopted a resolution allowing a board of county commissioners to 65859  
deliver the notice required under this division fewer than 65860  
forty-five business days prior to approval of the agreement by the 65861  
board of county commissioners, the board of county commissioners 65862  
shall deliver the notice to the board of education not later than 65863  
the number of days prior to such approval as prescribed by the 65864  
board of education in its resolution. If a board of education 65865  
adopts a resolution waiving its right to approve agreements or 65866  
shortening the notification period, the board of education shall 65867  
certify a copy of the resolution to the board of county 65868  
commissioners. If the board of education rescinds such a 65869  
resolution, it shall certify notice of the rescission to the board 65870  
of county commissioners. 65871

(2) The board of county commissioners shall comply with 65872  
section 5709.83 of the Revised Code unless the board of education 65873  
has adopted a resolution under that section waiving its right to 65874  
receive such notice. 65875

(D) This division applies to zones certified by the director 65876  
of development under this section prior to July 22, 1994. 65877

On or before ~~June 30, 2004~~ October 15, 2009, and with the 65878  
consent of the legislative authority of each affected municipal 65879  
corporation or board of township trustees of each affected 65880  
township, the board of commissioners that designated a zone to 65881  
which this division applies may enter into an agreement with an 65882  
enterprise if the board makes the finding required under that 65883  
division and determines that the enterprise satisfies one of the 65884  
criteria described in divisions (D)(1) to (5) of this section: 65885

(1) The enterprise currently has no operations in this state 65886  
and, subject to approval of the agreement, intends to establish 65887  
operations in the zone; 65888

(2) The enterprise currently has operations in this state 65889  
and, subject to approval of the agreement, intends to establish 65890  
operations at a new location in the zone that would not result in 65891  
a reduction in the number of employee positions at any of the 65892  
enterprise's other locations in this state; 65893

(3) The enterprise, subject to approval of the agreement, 65894  
intends to relocate operations, currently located in another 65895  
state, to the zone; 65896

(4) The enterprise, subject to approval of the agreement, 65897  
intends to expand operations at an existing site in the zone that 65898  
the enterprise currently operates; 65899

(5) The enterprise, subject to approval of the agreement, 65900  
intends to relocate operations, currently located in this state, 65901  
to the zone, and the director of development has issued a waiver 65902  
for the enterprise under division (B) of section 5709.633 of the 65903  
Revised Code. 65904

The agreement shall require the enterprise to agree to 65905  
establish, expand, renovate, or occupy a facility in the zone and 65906  
hire new employees, or preserve employment opportunities for 65907  
existing employees, in return for one or more of the incentives 65908  
described in division (B) of this section. 65909

(E) All agreements entered into under this section shall be 65910  
in the form prescribed under section 5709.631 of the Revised Code. 65911  
After an agreement under this section is entered into, if the 65912  
board of county commissioners revokes its designation of the zone, 65913  
or if the director of development revokes the zone's 65914  
certification, any entitlements granted under the agreement shall 65915  
continue for the number of years specified in the agreement. 65916

(F) Except as otherwise provided in this paragraph, an 65917  
agreement entered into under this section shall require that the 65918  
enterprise pay an annual fee equal to the greater of one per cent 65919

of the dollar value of incentives offered under the agreement or 65920  
five hundred dollars; provided, however, that if the value of the 65921  
incentives exceeds two hundred fifty thousand dollars, the fee 65922  
shall not exceed two thousand five hundred dollars. The fee shall 65923  
be payable to the board of commissioners once per year for each 65924  
year the agreement is effective on the days and in the form 65925  
specified in the agreement. Fees paid shall be deposited in a 65926  
special fund created for such purpose by the board and shall be 65927  
used by the board exclusively for the purpose of complying with 65928  
section 5709.68 of the Revised Code and by the tax incentive 65929  
review council created under section 5709.85 of the Revised Code 65930  
exclusively for the purposes of performing the duties prescribed 65931  
under that section. The board may waive or reduce the amount of 65932  
the fee charged against an enterprise, but such waiver or 65933  
reduction does not affect the obligations of the board or the tax 65934  
incentive review council to comply with section 5709.68 or 5709.85 65935  
of the Revised Code, respectively. 65936

(G) With the approval of the legislative authority of a 65937  
municipal corporation or the board of township trustees of a 65938  
township in which a zone is designated under division (A) of this 65939  
section, the board of county commissioners may delegate to that 65940  
legislative authority or board any powers and duties of the board 65941  
to negotiate and administer agreements with regard to that zone 65942  
under this section. 65943

(H) When an agreement is entered into pursuant to this 65944  
section, the legislative authority authorizing the agreement shall 65945  
forward a copy of the agreement to the director of development and 65946  
to the tax commissioner within fifteen days after the agreement is 65947  
entered into. If any agreement includes terms not provided for in 65948  
section 5709.631 of the Revised Code affecting the revenue of a 65949  
city, local, or exempted village school district or causing 65950  
revenue to be foregone by the district, including any compensation 65951

to be paid to the school district pursuant to section 5709.82 of 65952  
the Revised Code, those terms also shall be forwarded in writing 65953  
to the director of development along with the copy of the 65954  
agreement forwarded under this division. 65955

(I) After an agreement is entered into, the enterprise shall 65956  
file with each personal property tax return required to be filed, 65957  
or annual report that is required to be filed under section 65958  
5727.08 of the Revised Code, while the agreement is in effect, an 65959  
informational return, on a form prescribed by the tax commissioner 65960  
for that purpose, setting forth separately the property, and 65961  
related costs and values, exempted from taxation under the 65962  
agreement. 65963

(J) Enterprises may agree to give preference to residents of 65964  
the zone within which the agreement applies relative to residents 65965  
of this state who do not reside in the zone when hiring new 65966  
employees under the agreement. 65967

(K) An agreement entered into under this section may include 65968  
a provision requiring the enterprise to create one or more 65969  
temporary internship positions for students enrolled in a course 65970  
of study at a school or other educational institution in the 65971  
vicinity, and to create a scholarship or provide another form of 65972  
educational financial assistance for students holding such a 65973  
position in exchange for the student's commitment to work for the 65974  
enterprise at the completion of the internship. 65975

**Sec. 5709.632.** (A)(1) The legislative authority of a 65976  
municipal corporation defined by the United States office of 65977  
management and budget as a central city of a metropolitan 65978  
statistical area may, in the manner set forth in section 5709.62 65979  
of the Revised Code, designate one or more areas in the municipal 65980  
corporation as a proposed enterprise zone. 65981

(2) With the consent of the legislative authority of each 65982

affected municipal corporation or of a board of township trustees, 65983  
a board of county commissioners may, in the manner set forth in 65984  
section 5709.62 of the Revised Code, designate one or more areas 65985  
in one or more municipal corporations or in unincorporated areas 65986  
of the county as proposed urban jobs and enterprise zones, except 65987  
that a board of county commissioners may designate no more than 65988  
one area within a township, or within adjacent townships, as a 65989  
proposed urban jobs and enterprise zone. 65990

(3) The legislative authority or board of county 65991  
commissioners may petition the director of development for 65992  
certification of the area as having the characteristics set forth 65993  
in division (A)(3) of section 5709.61 of the Revised Code. Within 65994  
sixty days after receiving such a petition, the director shall 65995  
determine whether the area has the characteristics set forth in 65996  
that division and forward the findings to the legislative 65997  
authority or board of county commissioners. If the director 65998  
certifies the area as having those characteristics and thereby 65999  
certifies it as a zone, the legislative authority or board may 66000  
enter into agreements with enterprises under division (B) of this 66001  
section. Any enterprise wishing to enter into an agreement with a 66002  
legislative authority or board of commissioners under this section 66003  
and satisfying one of the criteria described in divisions (B)(1) 66004  
to (5) of this section shall submit a proposal to the legislative 66005  
authority or board on the form prescribed under division (B) of 66006  
section 5709.62 of the Revised Code and shall review and update 66007  
the estimates and listings required by the form in the manner 66008  
required under that division. The legislative authority or board 66009  
may, on a separate form and at any time, require any additional 66010  
information necessary to determine whether an enterprise is in 66011  
compliance with an agreement and to collect the information 66012  
required to be reported under section 5709.68 of the Revised Code. 66013

(B) Prior to entering into an agreement with an enterprise, 66014

the legislative authority or board of county commissioners shall 66015  
determine whether the enterprise submitting the proposal is 66016  
qualified by financial responsibility and business experience to 66017  
create and preserve employment opportunities in the zone and to 66018  
improve the economic climate of the municipal corporation or 66019  
municipal corporations or the unincorporated areas in which the 66020  
zone is located and to which the proposal applies, and whether the 66021  
enterprise satisfies one of the following criteria: 66022

(1) The enterprise currently has no operations in this state 66023  
and, subject to approval of the agreement, intends to establish 66024  
operations in the zone; 66025

(2) The enterprise currently has operations in this state 66026  
and, subject to approval of the agreement, intends to establish 66027  
operations at a new location in the zone that would not result in 66028  
a reduction in the number of employee positions at any of the 66029  
enterprise's other locations in this state; 66030

(3) The enterprise, subject to approval of the agreement, 66031  
intends to relocate operations, currently located in another 66032  
state, to the zone; 66033

(4) The enterprise, subject to approval of the agreement, 66034  
intends to expand operations at an existing site in the zone that 66035  
the enterprise currently operates; 66036

(5) The enterprise, subject to approval of the agreement, 66037  
intends to relocate operations, currently located in this state, 66038  
to the zone, and the director of development has issued a waiver 66039  
for the enterprise under division (B) of section 5709.633 of the 66040  
Revised Code. 66041

(C) If the legislative authority or board determines that the 66042  
enterprise is so qualified and satisfies one of the criteria 66043  
described in divisions (B)(1) to (5) of this section, the 66044  
legislative authority or board may, after complying with section 66045

5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October  
15, 2009, and, in the case of a board of commissioners, with the  
consent of the legislative authority of each affected municipal  
corporation or of the board of township trustees, enter into an  
agreement with the enterprise under which the enterprise agrees to  
establish, expand, renovate, or occupy a facility in the zone and  
hire new employees, or preserve employment opportunities for  
existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation,  
a legislative authority or board of commissioners may enter into  
an agreement for one or more of the incentives provided in  
division (C) of section 5709.62 of the Revised Code, subject to  
division (D) of that section;

(2) When the facility is located in an unincorporated area, a  
board of commissioners may enter into an agreement for one or more  
of the incentives provided in divisions (B)(1)(b), (B)(2), and  
(B)(3) of section 5709.63 of the Revised Code, subject to division  
(C) of that section.

(D) All agreements entered into under this section shall be  
in the form prescribed under section 5709.631 of the Revised Code.  
After an agreement under this section is entered into, if the  
legislative authority or board of county commissioners revokes its  
designation of the zone, or if the director of development revokes  
the zone's certification, any entitlements granted under the  
agreement shall continue for the number of years specified in the  
agreement.

(E) Except as otherwise provided in this division, an  
agreement entered into under this section shall require that the  
enterprise pay an annual fee equal to the greater of one per cent  
of the dollar value of incentives offered under the agreement or  
five hundred dollars; provided, however, that if the value of the  
incentives exceeds two hundred fifty thousand dollars, the fee

shall not exceed two thousand five hundred dollars. The fee shall 66078  
be payable to the legislative authority or board of commissioners 66079  
once per year for each year the agreement is effective on the days 66080  
and in the form specified in the agreement. Fees paid shall be 66081  
deposited in a special fund created for such purpose by the 66082  
legislative authority or board and shall be used by the 66083  
legislative authority or board exclusively for the purpose of 66084  
complying with section 5709.68 of the Revised Code and by the tax 66085  
incentive review council created under section 5709.85 of the 66086  
Revised Code exclusively for the purposes of performing the duties 66087  
prescribed under that section. The legislative authority or board 66088  
may waive or reduce the amount of the fee charged against an 66089  
enterprise, but such waiver or reduction does not affect the 66090  
obligations of the legislative authority or board or the tax 66091  
incentive review council to comply with section 5709.68 or 5709.85 66092  
of the Revised Code, respectively. 66093

(F) With the approval of the legislative authority of a 66094  
municipal corporation or the board of township trustees of a 66095  
township in which a zone is designated under division (A)(2) of 66096  
this section, the board of county commissioners may delegate to 66097  
that legislative authority or board any powers and duties of the 66098  
board to negotiate and administer agreements with regard to that 66099  
zone under this section. 66100

(G) When an agreement is entered into pursuant to this 66101  
section, the legislative authority or board of commissioners 66102  
authorizing the agreement shall forward a copy of the agreement to 66103  
the director of development and to the tax commissioner within 66104  
fifteen days after the agreement is entered into. If any agreement 66105  
includes terms not provided for in section 5709.631 of the Revised 66106  
Code affecting the revenue of a city, local, or exempted village 66107  
school district or causing revenue to be foregone by the district, 66108  
including any compensation to be paid to the school district 66109

pursuant to section 5709.82 of the Revised Code, those terms also 66110  
shall be forwarded in writing to the director of development along 66111  
with the copy of the agreement forwarded under this division. 66112

(H) After an agreement is entered into, the enterprise shall 66113  
file with each personal property tax return required to be filed 66114  
while the agreement is in effect, an informational return, on a 66115  
form prescribed by the tax commissioner for that purpose, setting 66116  
forth separately the property, and related costs and values, 66117  
exempted from taxation under the agreement. 66118

(I) An agreement entered into under this section may include 66119  
a provision requiring the enterprise to create one or more 66120  
temporary internship positions for students enrolled in a course 66121  
of study at a school or other educational institution in the 66122  
vicinity, and to create a scholarship or provide another form of 66123  
educational financial assistance for students holding such a 66124  
position in exchange for the student's commitment to work for the 66125  
enterprise at the completion of the internship. 66126

**Sec. 5709.64.** (A) If an enterprise has been granted an 66127  
incentive for the current calendar year under an agreement entered 66128  
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 66129  
Code, it may apply, on or before the thirtieth day of April of 66130  
that year, to the director of development, on a form prescribed by 66131  
the director, for a tax incentive qualification certificate. The 66132  
enterprise qualifies for an initial certificate if, on or before 66133  
the last day of the calendar year immediately preceding that in 66134  
which application is made, it satisfies all of the following 66135  
requirements: 66136

(1) The enterprise has established, expanded, renovated, or 66137  
occupied a facility pursuant to the agreement under section 66138  
5709.62, 5709.63, or 5709.632 of the Revised Code. 66139

(2) The enterprise has hired new employees to fill nonretail 66140

positions at the facility, at least twenty-five per cent of whom 66141  
at the time they were employed were at least one of the following: 66142

(a) Unemployed persons who had resided at least six months in 66143  
the county in which the enterprise's project site is located; 66144

(b) JPTA eligible employees who had resided at least six 66145  
months in the county in which the enterprise's project site is 66146  
located; 66147

(c) Participants of the Ohio works first program under 66148  
Chapter 5107. of the Revised Code or the prevention, retention, 66149  
and contingency program under Chapter 5108. of the Revised Code or 66150  
recipients of general assistance under former Chapter 5113. of the 66151  
Revised Code, ~~disability~~ financial assistance under Chapter 5115. 66152  
of the Revised Code, or unemployment compensation benefits who had 66153  
resided at least six months in the county in which the 66154  
enterprise's project site is located; 66155

(d) Handicapped persons, as defined under division (A) of 66156  
section 3304.11 of the Revised Code, who had resided at least six 66157  
months in the county in which the enterprise's project site is 66158  
located; 66159

(e) Residents for at least one year of a zone located in the 66160  
county in which the enterprise's project site is located. 66161

The director of development shall, by rule, establish 66162  
criteria for determining what constitutes a nonretail position at 66163  
a facility. 66164

(3) The average number of positions attributable to the 66165  
enterprise in the municipal corporation during the calendar year 66166  
immediately preceding the calendar year in which application is 66167  
made exceeds the maximum number of positions attributable to the 66168  
enterprise in the municipal corporation during the calendar year 66169  
immediately preceding the first year the enterprise satisfies the 66170  
requirements set forth in divisions (A)(1) and (2) of this 66171

section. If the enterprise is engaged in a business which, because 66172  
of its seasonal nature, customarily enables the enterprise to 66173  
operate at full capacity only during regularly recurring periods 66174  
of the year, the average number of positions attributable to the 66175  
enterprise in the municipal corporation during each period of the 66176  
calendar year immediately preceding the calendar year in which 66177  
application is made must exceed only the maximum number of 66178  
positions attributable to the enterprise in each corresponding 66179  
period of the calendar year immediately preceding the first year 66180  
the enterprise satisfies the requirements of divisions (A)(1) and 66181  
(2) of this section. The director of development shall, by rule, 66182  
prescribe methods for determining whether an enterprise is engaged 66183  
in a seasonal business and for determining the length of the 66184  
corresponding periods to be compared. 66185

(4) The enterprise has not closed or reduced employment at 66186  
any place of business in the state for the primary purpose of 66187  
establishing, expanding, renovating, or occupying a facility. The 66188  
legislative authority of any municipal corporation or the board of 66189  
county commissioners of any county that concludes that an 66190  
enterprise has closed or reduced employment at a place of business 66191  
in that municipal corporation or county for the primary purpose of 66192  
establishing, expanding, renovating, or occupying a facility in a 66193  
zone may appeal to the director to determine whether the 66194  
enterprise has done so. Upon receiving such an appeal, the 66195  
director shall investigate the allegations and make such a 66196  
determination before issuing an initial or renewal tax incentive 66197  
qualification certificate under this section. 66198

Within sixty days after receiving an application under this 66199  
division, the director shall review, investigate, and verify the 66200  
application and determine whether the enterprise qualifies for a 66201  
certificate. The application shall include an affidavit executed 66202  
by the applicant verifying that the enterprise satisfies the 66203

requirements of division (A)(2) of this section, and shall contain 66204  
such information and documents as the director requires, by rule, 66205  
to ascertain whether the enterprise qualifies for a certificate. 66206  
If the director finds the enterprise qualified, the director shall 66207  
issue a tax incentive qualification certificate, which shall bear 66208  
as its date of issuance the thirtieth day of June of the year of 66209  
application, and shall state that the applicant is entitled to 66210  
receive, for the taxable year that includes the certificate's date 66211  
of issuance, the tax incentives provided under section 5709.65 of 66212  
the Revised Code with regard to the facility to which the 66213  
certificate applies. If an enterprise is issued an initial 66214  
certificate, it may apply, on or before the thirtieth day of April 66215  
of each succeeding calendar year for which it has been granted an 66216  
incentive under an agreement entered pursuant to section 5709.62, 66217  
5709.63, or 5709.632 of the Revised Code, for a renewal 66218  
certificate. Subsequent to its initial certification, the 66219  
enterprise qualifies for up to three successive renewal 66220  
certificates if, on or before the last day of the calendar year 66221  
immediately preceding that in which the application is made, it 66222  
satisfies all the requirements of divisions (A)(1) to (4) of this 66223  
section, and neither the zone's designation nor the zone's 66224  
certification has been revoked prior to the fifteenth day of June 66225  
of the year in which the application is made. The application 66226  
shall include an affidavit executed by the applicant verifying 66227  
that the enterprise satisfies the requirements of division (A)(2) 66228  
of this section. An enterprise with ten or more supervisory 66229  
personnel at the facility to which a certificate applies qualifies 66230  
for any subsequent renewal certificates only if it meets all of 66231  
the foregoing requirements and, in addition, at least ten per cent 66232  
of those supervisory personnel are employees who, when first hired 66233  
by the enterprise, satisfied at least one of the criteria 66234  
specified in divisions (A)(2)(a) to (e) of this section. If the 66235  
enterprise qualifies, a renewal certificate shall be issued 66236

bearing as its date of issuance the thirtieth day of June of the 66237  
year of application. The director shall send copies of the initial 66238  
certificate, and each renewal certificate, by certified mail, to 66239  
the enterprise, the tax commissioner, the board of county 66240  
commissioners, and the chief executive of the municipal 66241  
corporation in which the facility to which the certificate applies 66242  
is located. 66243

(B) If the director determines that an enterprise is not 66244  
qualified for an initial or renewal tax incentive qualification 66245  
certificate, the director shall send notice of this determination, 66246  
specifying the reasons for it, by certified mail, to the 66247  
applicant, the tax commissioner, the board of county 66248  
commissioners, and the chief executive of the municipal 66249  
corporation in which the facility to which the certificate would 66250  
have applied is located. Within thirty days after receiving such a 66251  
notice, an enterprise may request, in writing, a hearing before 66252  
the director for the purpose of reviewing the application and the 66253  
reasons for the determination. Within sixty days after receiving a 66254  
request for a hearing, the director shall afford one and, within 66255  
thirty days after the hearing, shall issue a redetermination of 66256  
the enterprise's qualification for a certificate. If the 66257  
enterprise is found to be qualified, the director shall proceed in 66258  
the manner provided under division (A) of this section. If the 66259  
enterprise is found to be unqualified, the director shall send 66260  
notice of this finding, by certified mail, to the applicant, the 66261  
tax commissioner, the board of county commissioners, and the chief 66262  
executive of the municipal corporation in which the facility to 66263  
which the certificate would have applied is located. The 66264  
director's redetermination that an enterprise is unqualified may 66265  
be appealed to the board of tax appeals in the manner provided 66266  
under section 5717.02 of the Revised Code. 66267

**Sec. 5711.02.** Except as otherwise provided by section 5711.13 66268

of the Revised Code, each year, beginning in tax year 2004, each 66269  
taxpayer having taxable personal property with an aggregate 66270  
taxable value in excess of ten thousand dollars shall make a 66271  
return, ~~annually~~, to the county auditor of each county in which 66272  
any taxable property, ~~which~~ the taxpayer must return, is required 66273  
by this chapter to be listed ~~and~~. The taxpayer shall truly and 66274  
correctly list ~~therein~~ on the return all taxable property so 66275  
required to be listed, including property exempt under division 66276  
(C)(3) of section 5709.01 of the Revised Code. Such returns shall 66277  
be made on the blanks prescribed by the tax commissioner, which 66278  
the county auditor shall supply at ~~his~~ the auditor's office along 66279  
with blanks of the kind required for the county supplemental 66280  
return required by section 5711.131 of the Revised Code ~~for the~~ 66281  
~~use of taxpayers~~. The county auditor shall mail or distribute such 66282  
blanks prior to the fifteenth day of February to all persons known 66283  
to ~~him~~ the auditor to be taxpayers and to all persons to whom the 66284  
commissioner may direct blanks of either type to be mailed or 66285  
distributed, ~~and he~~. The county auditor may place listing and 66286  
county supplemental blanks at convenient places in ~~his~~ the county. 66287  
The failure of a taxpayer to receive or procure blanks shall not 66288  
excuse ~~him~~ the taxpayer from making any return or county 66289  
supplemental return. The individual required to make the return 66290  
shall furnish all statements and documents, give all information 66291  
required, answer all questions asked on the required blanks, and 66292  
subscribe to the truth and correctness of all matters contained 66293  
therein. 66294

**Sec. 5711.13.** A Beginning in tax year 2004, each taxpayer 66295  
having taxable property with an aggregate taxable value in excess 66296  
of ten thousand dollars and required to be listed in more than one 66297  
county shall make a combined return to the tax commissioner 66298  
listing all its taxable property in this state, in conformity with 66299  
sections 5711.01 to 5711.36 of the Revised Code, including 66300

property exempt under division (C)(3) of section 5709.01 of the Revised Code, but ~~it~~ the taxpayer shall not assign ~~its~~ property of the kinds mentioned in section 5709.02 of the Revised Code to any particular taxing district or county. The tax commissioner shall assess the personal property of such taxpayer in the several taxing districts in which it is required ~~by~~ to be assessed under sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ and shall issue assessment certificates therefor to the proper county auditors at the time and in the manner required by section 5711.25 of the Revised Code. All other property of such taxpayer required to be so listed shall be entered on the intangible property tax list in the office of the treasurer of state, ~~and taxed shall be subject to taxation~~ under section 5707.03 of the Revised Code. The commissioner shall assess all other property of each such taxpayer and, on or before the second Monday of August annually, shall certify the total value or amount of each kind thereof to the treasurer of state, who shall enter the value or amount on the intangible property tax list in ~~his~~ the treasurer of state's office in the manner provided in sections 5725.01 to 5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the Revised Code shall apply to and govern such taxpayer, its proper officers and representatives, the commissioner, and the county auditor as to all proceedings in the assessment of the property of such taxpayer.

**Sec. 5711.18. (A) As used in this section:**

(1) "Qualifying manufacturing property" means machinery or equipment satisfying both of the following:

(a) The machinery or equipment would qualify as a thing transferred and used primarily in a manufacturing operation for the purposes of division (E)(9) of section 5739.01 and section 5739.011 of the Revised Code.

(b) The machinery or equipment was first placed in service in this state on or after July 1, 2004, and has not been listed for taxation under this chapter, and was not required to have been so listed, for any tax year before tax year 2004.

(2) "Phase-in percentage" means the percentage corresponding with each of the following tax years:

<u>Tax Year</u>	<u>Percentage</u>
<u>2004</u>	<u>90%</u>
<u>2005</u>	<u>80%</u>
<u>2006</u>	<u>70%</u>
<u>2007</u>	<u>60%</u>
<u>2008</u>	<u>50%</u>
<u>2009</u>	<u>40%</u>
<u>2010</u>	<u>30%</u>
<u>2011</u>	<u>20%</u>
<u>2012</u>	<u>10%</u>
<u>2013 and thereafter</u>	<u>0%</u>

(B) In the case of accounts receivable, the book value thereof less book reserves shall be listed and shall be taken as the true value thereof unless the assessor finds that such net book value is greater or less than the then true value of such accounts receivable in money. ~~In~~

(C) In the case of personal property used in business, ~~the book value thereof less book depreciation at such time shall be listed, and such depreciated book value~~ one of the following values shall be listed and shall be taken as the true value of such property, unless the assessor finds that such ~~depreciated book~~ value is greater or less than the then true value of such property in money. ~~Claim:~~

(1) In the case of personal property other than qualifying manufacturing property, the book value of the property less book

depreciation at the time of listing; 66363

(2) In the case of qualifying manufacturing property, the sum 66364  
of the following: 66365

(a) The depreciated book value at which the property would be 66366  
valued under division (C)(1) of this section if the property were 66367  
valued at the lowest valuation percentage for the class life 66368  
assigned to such property, as prescribed under the rules adopted 66369  
by the tax commissioner for the purpose of valuing personal 66370  
property used in business; 66371

(b) The phase-in percentage multiplied by the excess, if any, 66372  
of (i) the book value of the property less book depreciation at 66373  
the time of listing, as prescribed in such rules, over (ii) the 66374  
value described in division (C)(2)(a) of this section. 66375

Nothing in this section shall cause the true value of 66376  
qualifying manufacturing property for any tax year to exceed the 66377  
book value of the property less book depreciation at the time of 66378  
listing. 66379

(D) Claims for any deduction from net book value of accounts 66380  
receivable or depreciated book value of personal property must be 66381  
made in writing by the taxpayer at the time of making the 66382  
taxpayer's return; ~~and when such.~~ If the return is made to the 66383  
county auditor who is required by sections 5711.01 to 5711.36~~7~~ 66384  
~~inclusive,~~ of the Revised Code~~7~~, to transmit it to the tax 66385  
commissioner for assessment, the auditor shall, as deputy of the 66386  
commissioner, investigate such claim and shall enter thereon, or 66387  
attach thereto, in such form as the commissioner prescribes, the 66388  
auditor's findings and recommendations with respect ~~thereto; when~~ 66389  
~~such~~ to the claim. If the return is made to the tax commissioner, 66390  
~~such~~ the claim for deduction from depreciated book value of 66391  
personal property shall be referred to the auditor, as such 66392  
deputy, of each county in which the property affected thereby is 66393

listed for investigation and report. 66394

(E) Any change in the method of determining true value, as 66395  
prescribed by the tax commissioner on a prospective basis, shall 66396  
not be admissible in any judicial or administrative action or 66397  
proceeding as evidence of value with regard to prior years' taxes. 66398  
Information about the business, property, or transactions of any 66399  
taxpayer obtained by the commissioner for the purpose of adopting 66400  
or modifying any such method shall not be subject to discovery or 66401  
disclosure. 66402

**Sec. 5711.22.** (A) Deposits not taxed at the source shall be 66403  
listed and assessed at their amount in dollars on the day they are 66404  
required to be listed. Moneys shall be listed and assessed at the 66405  
amount thereof in dollars on hand on the day that they are 66406  
required to be listed. In listing investments, the amount of the 66407  
income yield of each for the calendar year next preceding the date 66408  
of listing shall, except as otherwise provided in this chapter, be 66409  
stated in dollars and cents and the assessment thereof shall be at 66410  
the amount of such income yield; but any property defined as 66411  
investments in either division (A) or (B) of section 5701.06 of 66412  
the Revised Code that has not been outstanding for the full 66413  
calendar year next preceding the date of listing, except shares of 66414  
stock of like kind as other shares of the same corporation 66415  
outstanding for the full calendar year next preceding the date of 66416  
listing, or which has yielded no income during such calendar year 66417  
shall be listed and assessed as unproductive investments, at their 66418  
true value in money on the day that such investments are required 66419  
to be listed. 66420

Credits and other taxable intangibles shall be listed and 66421  
assessed at their true value in money on the day as of which the 66422  
same are required to be listed. 66423

Shares of stock of a bank holding company, as defined in 66424

Title 12 U.S.C.A., section 1841, that are required to be listed 66425  
for taxation under this division and upon which dividends were 66426  
paid during the year of their issuance, which dividends are 66427  
subject to taxation under the provisions of Chapter 5747. of the 66428  
Revised Code, shall be exempt from the intangibles tax for the 66429  
year immediately succeeding their issuance. If such shares bear 66430  
dividends the first calendar year after their issuance, which 66431  
dividends are subject to taxation under the provisions of Chapter 66432  
5747. of the Revised Code, it shall be deemed that the 66433  
nondelinquent intangible property tax pursuant to division (A) of 66434  
section 5707.04 of the Revised Code was paid on those dividends 66435  
paid that first calendar year after the issuance of the shares. 66436

(B)(1) Boilers, machinery, equipment, and personal property 66437  
the true value of which is determined under division (B) of 66438  
section 5711.21 of the Revised Code shall be listed and assessed 66439  
at an amount equal to the sum of the products determined under 66440  
divisions (B)(1)(a), (b), and (c) of this section. 66441

(a) Multiply the portion of the true value determined under 66442  
division (B)(1) of section 5711.21 of the Revised Code by the 66443  
assessment rate in division (F) of this section; 66444

(b) Multiply the portion of the true value determined under 66445  
division (B)(2) of section 5711.21 of the Revised Code by the 66446  
assessment rate in section 5727.111 of the Revised Code that is 66447  
applicable to the production equipment of an electric company; 66448

(c) Multiply the portion of the true value determined under 66449  
division (B)(3) of section 5711.21 of the Revised Code by the 66450  
assessment rate in section 5727.111 of the Revised Code that is 66451  
applicable to the property of an electric company that is not 66452  
production equipment. 66453

(2) Personal property leased to a public utility or 66454  
interexchange telecommunications company as defined in section 66455

5727.01 of the Revised Code and used directly in the rendition of 66456  
a public utility service as defined in division (P) of section 66457  
5739.01 of the Revised Code shall be listed and assessed at the 66458  
same percentage of true value in money that such property is 66459  
required to be assessed by section 5727.111 of the Revised Code if 66460  
owned by the public utility or interexchange telecommunications 66461  
company. 66462

(C)(1) Merchandise or an agricultural product shipped from 66463  
outside this state and held in this state in a warehouse or a 66464  
place of storage without further manufacturing or processing and 66465  
for storage only and for shipment outside this state, but that is 66466  
taxable because it does not qualify as "not used in business in 66467  
this state" under division (B)(1) or (2) of section 5701.08 of the 66468  
Revised Code, shall be listed and assessed at a rate of 66469  
twenty-five one-hundredths of its true value in money until 66470  
reduced in accordance with the following schedule: 66471

(a) For any year, subtract five one-hundredths from the rate 66472  
at which such property was required to be listed and assessed in 66473  
the preceding year, if the total statewide collection of all real 66474  
and tangible personal property taxes for the second preceding year 66475  
exceeded the total statewide collection of all real and tangible 66476  
personal property taxes for the third preceding year by more than 66477  
the greater of four per cent or the rate of increase from the 66478  
third to the second preceding years in the average consumer price 66479  
index (all urban consumers, all items) prepared by the bureau of 66480  
labor statistics of the United States department of labor; 66481

(b) If no reduction in the assessment rate is made for a 66482  
year, the rate is the same as for the preceding year. 66483

(2) Each year until the year the assessment rate equals zero, 66484  
the tax commissioner shall determine the assessment rate required 66485  
under this division and shall notify all county auditors of that 66486  
rate. 66487

(3) Notwithstanding provisions to the contrary in division 66488  
(B) of section 5701.08 of the Revised Code, during and after the 66489  
year for which the assessment rate as calculated under this 66490  
division equals zero, any merchandise or agricultural product 66491  
shipped from outside this state and held in this state in any 66492  
warehouse or place of storage, whether public or private, without 66493  
further manufacturing or processing and for storage only and for 66494  
shipment outside this state to any person for any purpose is not 66495  
used in business in this state for property tax purposes. 66496

(D)(1) Merchandise or an agricultural product owned by a 66497  
qualified out-of-state person shipped from outside this state and 66498  
held in this state in a public warehouse without further 66499  
manufacturing or processing and for temporary storage only and for 66500  
shipment inside this state, but that is taxable because it does 66501  
not qualify as "not used in business in this state" under division 66502  
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 66503  
listed and assessed at a rate of twenty-five one-hundredths of its 66504  
true value in money until reduced in accordance with the following 66505  
schedule: 66506

(a) For any year, subtract five one-hundredths from the rate 66507  
at which such property was required to be listed and assessed in 66508  
the preceding year, if the total statewide collection of all real 66509  
and tangible personal property taxes for the second preceding year 66510  
exceeded the total statewide collection of all real and tangible 66511  
personal property taxes for the third preceding year by more than 66512  
the greater of four per cent or the rate of increase from the 66513  
third to the second preceding years in the average consumer price 66514  
index (all urban consumers, all items) prepared by the bureau of 66515  
labor statistics of the United States department of labor; 66516

(b) If no reduction in the assessment rate is made for a 66517  
year, the rate is the same as for the preceding year. 66518

(2) Each year until the year the assessment rate equals zero, 66519  
the tax commissioner shall determine the assessment rate required 66520  
under this division and shall notify all county auditors of that 66521  
rate. 66522

(3) Notwithstanding provisions to the contrary in division 66523  
(B) of section 5701.08 of the Revised Code, during and after the 66524  
year for which the assessment rate as calculated under this 66525  
division equals zero, any merchandise or agricultural product 66526  
described in division (D)(1) of this section is not used in 66527  
business in this state for property tax purposes. 66528

(4) As used in division (D) of this section: 66529

(a) "Qualified out-of-state person" means a person that does 66530  
not own, lease, or use property, other than merchandise or an 66531  
agricultural product described in this division, in this state, 66532  
and does not have employees, agents, or representatives in this 66533  
state; 66534

(b) "Public warehouse" means a warehouse in this state that 66535  
is not subject to the control of or under the supervision of the 66536  
owner of the merchandise or agricultural product stored in it, or 66537  
staffed by the owner's employees, and from which the property is 66538  
to be shipped inside this state. 66539

(E) Personal property valued pursuant to section 5711.15 of 66540  
the Revised Code and personal property required to be listed on 66541  
the average basis by division (A) of section 5711.16 of the 66542  
Revised Code, except property described in division (C) or (D) of 66543  
this section, business fixtures, and furniture not held for sale 66544  
in the course of business, shall be listed and assessed at the 66545  
rate of twenty-five per cent of its true value in money until 66546  
reduced to zero in accordance with the following schedule: 66547

(1) Beginning in tax year 2002 and for each of tax years 66548  
2003, and 2004, ~~2005, and 2006,~~ subtract one percentage point from 66549

the rate at which the property was required to be listed and 66550  
assessed in the preceding year, if the total statewide collection 66551  
of tangible personal property taxes for the second preceding year 66552  
exceeded the total statewide collection of tangible personal 66553  
property taxes for the third preceding year. If no reduction in 66554  
the assessment rate is made for a year, the rate is the same as 66555  
for the preceding year. ~~For purposes of this division, total~~ 66556  
~~statewide collection of tangible personal property taxes excludes~~ 66557  
~~taxes collected from public utilities and interexchange~~ 66558  
~~telecommunications companies on property that is determined to be~~ 66559  
~~taxable pursuant to section 5727.06 of the Revised Code.~~ 66560

(2) In tax year 2007, ~~the assessment rate shall be the lesser~~ 66561  
~~of twenty four per cent or one percentage point less than the rate~~ 66562  
~~at which property was required to be listed and assessed the~~ 66563  
~~preceding year. Each 2005 and each tax year thereafter, the~~ 66564  
assessment rate shall be reduced by ~~one~~ two percentage ~~point~~ point until 66565  
~~it equals zero per cent not later than tax year 2031~~ points, if 66566  
the total statewide collection of tangible personal property taxes 66567  
for the second preceding year exceeded the total statewide 66568  
collection of tangible personal property taxes for the third 66569  
preceding year. If no reduction in the assessment rate is made for 66570  
a year, the rate is the same as for the preceding year. During and 66571  
after the tax year that the assessment rate equals zero, the 66572  
property described in division (E) of this section shall not be 66573  
listed for taxation. 66574

Each year until the year the assessment rate equals zero, the 66575  
tax commissioner shall determine the assessment rate required 66576  
under this division and shall notify all county auditors of that 66577  
rate. 66578

For purposes of division (E) of this section, "total 66579  
statewide collection of tangible person property taxes" excludes 66580  
taxes collected from public utilities and interexchange 66581

telecommunications companies on property that is determined to be 66582  
taxable pursuant to section 5727.06 of the Revised Code. 66583

(F) Unless otherwise provided by law, all other personal 66584  
property used in business that has not been legally regarded as an 66585  
improvement on land and considered in arriving at the value of the 66586  
real property assessed for taxation shall be listed and assessed 66587  
at the rate of twenty-five per cent of its true value in money. 66588

**Sec. 5711.27.** No taxpayer shall fail to make a return within 66589  
the time prescribed by law, or as extended pursuant to section 66590  
5711.04 of the Revised Code, nor fail to list in a return or 66591  
disclose on an accompanying balance sheet or in other information 66592  
filed with the return any item of taxable property ~~which he~~ the 66593  
taxpayer is required ~~by~~ to list in the return under sections 66594  
5711.01 to 5711.36 of the Revised Code, ~~to list therein.~~ 66595

If any taxpayer ~~does so fail the following shall apply:~~ 66596

~~(A) In the case of a taxpayer who fails to make a timely~~ 66597  
~~return, the assessor shall add to the taxpayer's assessment as a~~ 66598  
~~penalty, one half of the taxpayer's taxable value that is exempt~~ 66599  
~~from taxation under division (C)(3) of section 5709.01 of the~~ 66600  
~~Revised Code. If the taxpayer's taxable value that is exempt from~~ 66601  
~~taxation under division (C)(3) of section 5709.01 of the Revised~~ 66602  
~~Code is located in more than one taxing district, the penalty~~ 66603  
~~assessment shall be applied among taxing districts as if only five~~ 66604  
~~thousand dollars, or one half of the taxpayer's taxable valuation,~~ 66605  
~~whichever is less, had been exempt from taxation under such~~ 66606  
~~division.~~ 66607

~~(B) In the case of a taxpayer who fails to make a timely~~ 66608  
~~return, or fails to list or disclose any item~~ he the taxpayer is 66609  
required to return, the assessor shall add to the assessment of 66610  
each class or item of taxable property ~~which~~ the taxpayer failed 66611  
to return, list, or disclose ~~and to any amount added under~~ 66612

~~division (A) of this section,~~ a penalty of up to fifty per cent 66613  
~~thereof of the assessment;~~ but if such taxpayer makes, within 66614  
sixty days after the expiration of the time prescribed by such 66615  
sections, a return or an amended or supplementary return and lists 66616  
therein or discloses on an accompanying balance sheet or in other 66617  
information filed with the return all items of taxable property 66618  
~~which he~~ the taxpayer is required by such sections to list, and in 66619  
all cases in which the taxpayer's only default is ~~his~~ the failure 66620  
to pay the amounts specified in section 5719.02 of the Revised 66621  
Code within the time therein specified, such penalty shall be five 66622  
per cent of the assessment, and, if the assessment certificate has 66623  
been issued, an amended assessment certificate shall be issued and 66624  
substituted therefor. 66625

~~Either or both of the penalties~~ The penalty provided in this 66626  
section may be abated in whole or in part by the assessor when it 66627  
is shown that such failure is due to reasonable cause. The penalty 66628  
assessment shall be entered on the proper tax list and duplicate, 66629  
and taxes shall be levied thereon the same as on the assessment 66630  
itself. 66631

~~If any taxpayer does so fail with respect to a return~~ 66632  
~~required to be filed for tax year 1982 or any prior year, the~~ 66633  
~~assessor shall add to the assessment of each class or item of~~ 66634  
~~taxable property which the taxpayer failed to return, list or~~ 66635  
~~disclose in addition to the penalties provided by law, an~~ 66636  
~~additional charge at the rate of one half of one per cent per~~ 66637  
~~month from the date such property should have been returned or~~ 66638  
~~disclosed until the same is assessed, provided that said~~ 66639  
~~additional charge shall not be added to an assessment for any~~ 66640  
~~period of time in excess of ten years previous to the date of the~~ 66641  
~~assessment.~~ 66642

A fiduciary against whom a penalty assessment is made shall 66643  
be personally liable for the amount of taxes levied in respect to 66644

such penalty assessment and any additional charge, and in case of 66645  
fraud or intent to evade taxes, such fiduciary shall have no right 66646  
of reimbursement against the property held by ~~him~~ the fiduciary as 66647  
such fiduciary nor against the person for whose benefit the same 66648  
is held. 66649

**Sec. 5711.33.** (A)(1) When a county treasurer receives a 66650  
certificate from a county auditor pursuant to division (A) of 66651  
section 5711.32 of the Revised Code charging the treasurer with 66652  
the collection of an amount of taxes due as the result of a 66653  
deficiency assessment, the treasurer shall immediately prepare and 66654  
mail a tax bill to the taxpayer owing such tax. The tax bill shall 66655  
contain the name of the taxpayer; the taxable value, tax rate, and 66656  
taxes charged for each year being assessed; the total amount of 66657  
taxes due; the final date payment may be made without additional 66658  
penalty; and any other information the treasurer considers 66659  
pertinent or necessary. Taxes due and payable as a result of a 66660  
deficiency assessment, less any amount specifically excepted from 66661  
collection under division (B) of section 5711.32 of the Revised 66662  
Code, shall be paid with interest thereon as prescribed by section 66663  
5719.041 of the Revised Code on or before the sixtieth day 66664  
following the date of issuance of the certificate by the county 66665  
auditor. The balance of taxes found due and payable after a final 66666  
determination by the tax commissioner or a final judgment of the 66667  
board of tax appeals or any court to which such final judgment may 66668  
be appealed, shall be paid with interest thereon as prescribed by 66669  
section 5719.041 of the Revised Code on or before the sixtieth day 66670  
following the date of certification by the auditor to the 66671  
treasurer pursuant to division (C) of section 5711.32 of the 66672  
Revised Code of such final determination or judgment. Such final 66673  
dates for payment shall be determined and exhibited on the tax 66674  
bill by the treasurer. 66675

(2) If, on or before the sixtieth day following the date of a 66676

certification of a deficiency assessment under division (A) of 66677  
section 5711.32 of the Revised Code or of a certification of a 66678  
final determination or judgment under division (C) of section 66679  
5711.32 of the Revised Code, the taxpayer pays the full amount of 66680  
taxes and interest due at the time of the receipt of certification 66681  
with respect to that assessment, determination, or judgment, no 66682  
interest shall accrue or be charged with respect to that 66683  
assessment, determination, or judgment for the period that begins 66684  
on the first day of the month in which the certification is made 66685  
and that ends on the last day of the month preceding the month in 66686  
which such sixtieth day occurs. 66687

(B) When the taxes charged, as mentioned in division (A) of 66688  
this section, are not paid within the time prescribed by such 66689  
division, a penalty of ten per cent of the amount due and unpaid 66690  
and interest for the period described in division (A)(2) of this 66691  
section shall accrue at the time the treasurer closes the 66692  
treasurer's office for business on the last day so prescribed, but 66693  
if the taxes are paid within ten days subsequent to the last day 66694  
prescribed, the treasurer shall waive the collection of and the 66695  
auditor shall remit one-half of the penalty. The treasurer shall 66696  
not thereafter accept less than the full amount of taxes and 66697  
penalty except as otherwise authorized by law. Such penalty shall 66698  
be distributed in the same manner and at the same time as the tax 66699  
upon which it has accrued. The whole amount collected shall be 66700  
included in the next succeeding settlement of appropriate taxes. 66701

(C) When the taxes charged, as mentioned in division (A) of 66702  
this section, remain unpaid after the final date for payment 66703  
prescribed by such division, such charges shall be deemed to be 66704  
delinquent taxes. The county auditor shall cause such charges, 66705  
including the penalty that has accrued pursuant to this section, 66706  
to be added to the delinquent tax duplicate in accordance with 66707  
section 5719.04 of the Revised Code. 66708

(D) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under division (B) of this section or division (C) of section 5719.03 of the Revised Code for the late payment of taxes when:

(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 66740  
the county auditor. The application may be filed in person or by 66741  
certified mail. If the application is filed by certified mail, the 66742  
date of the United States postmark placed on the sender's receipt 66743  
by the postal service shall be treated as the date of filing. The 66744  
commissioner shall consider the application, determine whether the 66745  
penalty should be remitted, and certify the determination to the 66746  
taxpayer and to the county treasurer and county auditor, who shall 66747  
correct the tax list and duplicate accordingly. The commissioner 66748  
~~shall~~ may issue orders and instructions for the uniform 66749  
implementation of this section by all county auditors and county 66750  
treasurers, and such orders and instructions shall be followed by 66751  
such officers. 66752

**Sec. 5713.07.** The county auditor, at the time of making the 66753  
assessment of real property subject to taxation, shall enter in a 66754  
separate list pertinent descriptions of all burying grounds, 66755  
public schoolhouses, houses used exclusively for public worship, 66756  
institutions of purely public charity, real property used 66757  
exclusively for a home for the aged, as defined in section 5701.13 66758  
of the Revised Code, ~~and~~ public buildings and property used 66759  
exclusively for any public purpose, and any other property, with 66760  
the lot or tract of land on which such house, institution, ~~or~~ 66761  
public building, or other property is situated, and which ~~are~~ 66762  
~~exempt~~ have been exempted from taxation by either the tax 66763  
commissioner under section 5715.27 of the Revised Code or by the 66764  
housing officer under section 3735.67 of the Revised Code. ~~He~~ The 66765  
auditor shall value such houses, buildings, property, and lots and 66766  
tracts of land at their taxable value in the same manner as ~~he~~ the 66767  
auditor is required to value other real property, designating in 66768  
each case the township, municipal corporation, and number of the 66769  
school district, or the name or designation of the school, 66770  
religious society, or institution to which each house, lot, or 66771

tract belongs. If such property is held and used for other public 66772  
purposes, ~~he~~ the auditor shall state by whom or how it is held. 66773

**Sec. 5713.08.** (A) The county auditor shall make a list of all 66774  
real and personal property in the auditor's county, including 66775  
money, credits, and investments in bonds, stocks, or otherwise, 66776  
which is exempted from taxation. Such list shall show the name of 66777  
the owner, the value of the property exempted, and a statement in 66778  
brief form of the ground on which such exemption has been granted. 66779  
It shall be corrected annually by adding thereto the items of 66780  
property which have been exempted during the year, and by striking 66781  
therefrom the items which in the opinion of the auditor have lost 66782  
their right of exemption and which have been reentered on the 66783  
taxable list. No additions shall be made to such exempt lists and 66784  
no additional items of property shall be exempted from taxation 66785  
without the consent of the tax commissioner as is provided for in 66786  
section 5715.27 of the Revised Code, ~~but when or without the~~ 66787  
consent of the housing officer under section 3735.67 of the 66788  
Revised Code. When any personal property or endowment fund of an 66789  
institution has once been held by the commissioner to be properly 66790  
exempt from taxation, it is not necessary to obtain the 66791  
commissioner's consent to the exemption of additional property or 66792  
investments of the same kind belonging to the same institution, 66793  
but such property shall appear on the abstract filed annually with 66794  
the commissioner. The commissioner may revise at any time the list 66795  
in every county so that no property is improperly or illegally 66796  
exempted from taxation. The auditor shall follow the orders of the 66797  
commissioner given under this section. An abstract of such list 66798  
shall be filed annually with the commissioner, on a form approved 66799  
by the commissioner, and a copy thereof shall be kept on file in 66800  
the office of each auditor for public inspection. 66801

The commissioner shall not consider an application for 66802  
exemption of property unless the application has attached thereto 66803

a certificate executed by the county treasurer certifying one of 66804  
the following: 66805

(1) That all taxes, assessments, interest, and penalties 66806  
levied and assessed against the property sought to be exempted 66807  
have been paid in full to the date upon which the application for 66808  
exemption is filed, except for such taxes, interest, and penalties 66809  
that may be remitted under division (B) of this section; 66810

(2) That the applicant has entered into a valid delinquent 66811  
tax contract with the county treasurer pursuant to division (A) of 66812  
section 323.31 of the Revised Code to pay all of the delinquent 66813  
taxes, assessments, interest, and penalties charged against the 66814  
property, except for such taxes, interest, and penalties that may 66815  
be remitted under division (B) of this section. If the auditor 66816  
receives notice under section 323.31 of the Revised Code that such 66817  
a written delinquent tax contract has become void, the auditor 66818  
shall strike such property from the list of exempted property and 66819  
reenter such property on the taxable list. If property is removed 66820  
from the exempt list because a written delinquent tax contract has 66821  
become void, current taxes shall first be extended against that 66822  
property on the general tax list and duplicate of real and public 66823  
utility property for the tax year in which the auditor receives 66824  
the notice required by division (A) of section 323.31 of the 66825  
Revised Code that the delinquent tax contract has become void or, 66826  
if that notice is not timely made, for the tax year in which falls 66827  
the latest date by which the treasurer is required by such section 66828  
to give such notice. A county auditor shall not remove from any 66829  
tax list and duplicate the amount of any unpaid delinquent taxes, 66830  
assessments, interest, or penalties owed on property that is 66831  
placed on the exempt list pursuant to this division. 66832

(3) That a tax certificate has been issued under section 66833  
5721.32 or 5721.33 of the Revised Code with respect to the 66834  
property that is the subject of the application, and the tax 66835

certificate is outstanding. 66836

(B) Any taxes, interest, and penalties which have become a 66837  
lien after the property was first used for the exempt purpose, but 66838  
in no case prior to the date of acquisition of the title to the 66839  
property by the applicant, may be remitted by the commissioner, 66840  
except as is provided in division (A) of section 5713.081 of the 66841  
Revised Code. 66842

(C) Real property acquired by the state in fee simple is 66843  
exempt from taxation from the date of acquisition of title or date 66844  
of possession, whichever is the earlier date, provided that all 66845  
taxes, interest, and penalties as provided in the apportionment 66846  
provisions of section 319.20 of the Revised Code have been paid to 66847  
the date of acquisition of title or date of possession by the 66848  
state, whichever is earlier. The proportionate amount of taxes 66849  
that are a lien but not yet determined, assessed, and levied for 66850  
the year in which the property is acquired, shall be remitted by 66851  
the county auditor for the balance of the year from date of 66852  
acquisition of title or date of possession, whichever is earlier. 66853  
This section shall not be construed to authorize the exemption of 66854  
such property from taxation or the remission of taxes, interest, 66855  
and penalties thereon until all private use has terminated. 66856

**Sec. 5713.081.** (A) No application for real property tax 66857  
exemption and tax remission shall be filed with, or considered by, 66858  
the tax commissioner in which tax remission is requested for more 66859  
than three tax years, and the commissioner shall not remit more 66860  
than three years' ~~delinquent~~ taxes, penalties, and interest. 66861

(B) All taxes, penalties, and interest, that have been 66862  
delinquent for more than three years, appearing on the general tax 66863  
list and duplicate of real property which have been levied and 66864  
assessed against parcels of real property owned by the state, any 66865  
political subdivision, or any other entity whose ownership of real 66866

property would constitute public ownership, shall be collected by 66867  
the county auditor of the county where the real property is 66868  
located. Such ~~official~~ auditor shall deduct from each distribution 66869  
made by ~~him~~ the auditor, the amount necessary to pay the tax 66870  
delinquency from any revenues or funds to the credit of the state, 66871  
any political subdivision, or any other entity whose ownership of 66872  
real property would constitute public ownership thereof, passing 66873  
under ~~his~~ the auditor's control, or which come into ~~his~~ the 66874  
auditor's possession, and such deductions shall be made on a 66875  
continuing basis until all delinquent taxes, penalties, and 66876  
interest noted in this section have been paid. 66877

(C) As used in division (B) of this section, "political 66878  
subdivision" includes townships, municipalities, counties, school 66879  
districts, boards of education, all state and municipal 66880  
universities, park boards, and any other entity whose ownership of 66881  
real property would constitute public ownership. 66882

**Sec. 5713.082.** (A) Whenever the county auditor reenters an 66883  
item of property to the tax list as provided in section 5713.08 of 66884  
the Revised Code and there has been no conveyance of the property 66885  
between separate entities, the auditor shall send notice by 66886  
certified mail to the owner of the property that it is now subject 66887  
to property taxation as a result of such action. The auditor shall 66888  
send the notice at the same time ~~he~~ the auditor certifies the real 66889  
property tax duplicate to the county treasurer. The notice shall 66890  
describe the property and indicate that the owner may reapply for 66891  
tax exemption by filing an application for exemption as provided 66892  
in section 5715.27 of the Revised Code, and that failure to file 66893  
such an application within the proper time period will result in 66894  
the owner having to pay the taxes even if the property continued 66895  
to be used for an exempt purpose. 66896

(B) If the auditor failed to send the notice required by this 66897

section, and if the owner of the property subsequently files an application for tax exemption for the property for the current tax year, the tax commissioner may grant exemption to the property, and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties for each prior year since the property was reentered on the tax list notwithstanding the provisions of division (A) of section 5713.081 of the Revised Code.

**Sec. 5713.30.** As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery

stock, ornamental trees, sod, or flowers where such activities 66929  
produced an average yearly gross income of at least twenty-five 66930  
hundred dollars during such three-year period or where there is 66931  
evidence of an anticipated gross income of such amount from such 66932  
activities during the tax year in which application is made, or 66933  
were devoted to and qualified for payments or other compensation 66934  
under a land retirement or conservation program under an agreement 66935  
with an agency of the federal government; 66936

(3) A tract, lot, or parcel of land taxed under sections 66937  
5713.22 to 5713.26 of the Revised Code is not land devoted 66938  
exclusively to agricultural use; 66939

(4) Tracts, lots, or parcels of land, or portions thereof 66940  
~~which~~ that, during the previous three consecutive calendar years 66941  
have been designated as land devoted exclusively to agricultural 66942  
use, but such land has been lying idle or fallow for up to one 66943  
year and no action has occurred to such land that is either 66944  
inconsistent with the return of it to agricultural production or 66945  
converts the land devoted exclusively to agricultural use as 66946  
defined in this section. Such land shall remain designated as land 66947  
devoted exclusively to agricultural use provided that beyond one 66948  
year, but less than three years, the landowner proves good cause 66949  
as determined by the board of revision. 66950

"Land devoted exclusively to agricultural use" includes 66951  
tracts, lots, or parcels of land or portions thereof that are used 66952  
for conservation practices, provided that the tracts, lots, or 66953  
parcels of land or portions thereof comprise twenty-five per cent 66954  
or less of the total of the tracts, lots, or parcels of land that 66955  
satisfy the criteria established in division (A)(1), (2), or (4) 66956  
of this section together with the tracts, lots, or parcels of land 66957  
or portions thereof that are used for conservation practices. 66958

(B) "Conversion of land devoted exclusively to agricultural 66959  
use" means any of the following: 66960

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes ~~which~~ that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate, or a buyer on a land installment contract.

(E) "Conservation practices" includes, but is not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops to abate soil erosion.

(F) "Wetlands" has the same meaning as in section 6111.02 of 66991  
the Revised Code. 66992

**Sec. 5715.27.** (A) The Except as provided in section 3735.67 66993  
of the Revised Code, the owner of any property may file an 66994  
application with the tax commissioner, on forms prescribed by the 66995  
commissioner, requesting that such property be exempted from 66996  
taxation and that ~~unpaid~~ taxes and penalties be remitted as 66997  
provided in division (B) of section 5713.08 of the Revised Code. 66998

(B) The board of education of any school district may request 66999  
the tax commissioner to provide it with notification of 67000  
applications for exemption from taxation for property located 67001  
within that district. If so requested, the commissioner shall send 67002  
to the board for the quarters ending on the last day of March, 67003  
June, September, and December of each year, reports that contain 67004  
sufficient information to enable the board to identify each 67005  
property that is the subject of an exemption application, 67006  
including, but not limited to, the name of the property owner or 67007  
applicant, the address of the property, and the auditor's parcel 67008  
number. The commissioner shall mail the reports on or about the 67009  
fifteenth day of the month following the end of the quarter. 67010

(C) A board of education that has requested notification 67011  
under division (B) of this section may, with respect to any 67012  
application for exemption of property located in the district and 67013  
included in the commissioner's most recent report provided under 67014  
that division, file a statement with the commissioner and with the 67015  
applicant indicating its intent to submit evidence and participate 67016  
in any hearing on the application. The statements shall be filed 67017  
prior to the first day of the third month following the end of the 67018  
quarter in which that application was docketed by the 67019  
commissioner. A statement filed in compliance with this division 67020  
entitles the district to submit evidence and to participate in any 67021

hearing on the property and makes the district a party for 67022  
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 67023  
appeal of the commissioner's decision to the board of tax appeals. 67024

(D) The commissioner shall not hold a hearing on or grant or 67025  
deny an application for exemption of property in a school district 67026  
whose board of education has requested notification under division 67027  
(B) of this section until the end of the period within which the 67028  
board may submit a statement with respect to that application 67029  
under division (C) of this section. The commissioner may act upon 67030  
an application at any time prior to that date upon receipt of a 67031  
written waiver from each such board of education, or, in the case 67032  
of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 67033  
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 67034  
of the property owner. Failure of a board of education to receive 67035  
the report required in division (B) of this section shall not void 67036  
an action of the commissioner with respect to any application. The 67037  
commissioner may extend the time for filing a statement under 67038  
division (C) of this section. 67039

(E) A complaint may also be filed with the commissioner by 67040  
any person, board, or officer authorized by section 5715.19 of the 67041  
Revised Code to file complaints with the county board of revision 67042  
against the continued exemption of any property granted exemption 67043  
by the commissioner under this section. 67044

(F) An application for exemption and a complaint against 67045  
exemption shall be filed prior to the thirty-first day of December 67046  
of the tax year for which exemption is requested or for which the 67047  
liability of ~~any~~ the property to taxation in that year is 67048  
requested. The commissioner shall consider such application or 67049  
complaint in accordance with procedures established by the 67050  
commissioner, determine whether the property is subject to 67051  
taxation or exempt therefrom, and certify the commissioner's 67052  
findings to the auditor, who shall correct the tax list and 67053

duplicate accordingly. If a tax certificate has been sold under 67054  
section 5721.32 or 5721.33 of the Revised Code with respect to 67055  
property for which an exemption has been requested, the tax 67056  
commissioner shall also certify the findings to the county 67057  
treasurer of the county in which the property is located. 67058

(G) Applications and complaints, and documents of any kind 67059  
related to applications and complaints, filed with the tax 67060  
commissioner under this section, are public records within the 67061  
meaning of section 149.43 of the Revised Code. 67062

(H) If the commissioner determines that the use of property 67063  
or other facts relevant to the taxability of property that is the 67064  
subject of an application for exemption or a complaint under this 67065  
section has changed while the application or complaint was 67066  
pending, the commissioner may make the determination under 67067  
division (F) of this section separately for each tax year 67068  
beginning with the year in which the application or complaint was 67069  
filed or the year for which remission of ~~unpaid~~ taxes under 67070  
division (B) of section 5713.08 of the Revised Code was requested, 67071  
and including each subsequent tax year during which the 67072  
application or complaint is pending before the commissioner. 67073

**Sec. 5715.39.** (A) The tax commissioner may remit real 67074  
property taxes, manufactured home taxes, penalties, and interest 67075  
found by the commissioner to have been illegally assessed. The 67076  
commissioner also may remit any penalty charged against any real 67077  
property or manufactured or mobile home that was the subject of an 67078  
application for exemption from taxation under section 5715.27 of 67079  
the Revised Code if the commissioner determines that the applicant 67080  
requested such exemption in good faith. The commissioner shall 67081  
include notice of the remission in the commissioner's 67082  
certification to the county auditor required under that section. 67083

(B) The ~~commissioner, on application by a taxpayer~~ county 67084

auditor, upon consultation with the county treasurer, shall remit 67085  
a penalty for late payment of any real property taxes or 67086  
manufactured home taxes when: 67087

~~(A)~~(1) The taxpayer could not make timely payment of the tax 67088  
because of the negligence or error of the county auditor or county 67089  
treasurer in the performance of a statutory duty relating to the 67090  
levy or collection of such tax. 67091

~~(B)~~(2) In cases other than those described in division 67092  
~~(A)~~(B)(1) of this section, the taxpayer failed to receive a tax 67093  
bill or a correct tax bill, and the taxpayer made a good faith 67094  
effort to obtain such bill within thirty days after the last day 67095  
for payment of the tax. 67096

~~(C)~~(3) The tax was not timely paid because of the death or 67097  
serious injury of the taxpayer, or the taxpayer's confinement in a 67098  
hospital within sixty days preceding the last day for payment of 67099  
the tax if, in any case, the tax was subsequently paid within 67100  
sixty days after the last day for payment of such tax. 67101

~~(D)~~(4) The taxpayer demonstrates ~~to the satisfaction of the~~ 67102  
~~commissioner~~ that the full payment was properly deposited in the 67103  
mail in sufficient time for the envelope to be postmarked by the 67104  
United States postal service on or before the last day for payment 67105  
of such tax. A private meter postmark on an envelope is not a 67106  
valid postmark for purposes of establishing the date of payment of 67107  
such tax. 67108

(5) In cases other than those described in division (B)(1) to 67109  
(4) of this section, the taxpayer's failure to make timely payment 67110  
of the tax is due to reasonable cause and not willful neglect. 67111

(C) The taxpayer, upon application within sixty days after 67112  
the mailing of the county auditor's decision, may request the tax 67113  
commissioner to review the denial of the remission of a penalty by 67114  
the auditor. The application may be filed in person or by 67115

certified mail. If the application is filed by certified mail, the 67116  
date of the United States postmark placed on the sender's receipt 67117  
by the postal service shall be treated as the date of filing. The 67118  
commissioner shall consider the application, determine whether the 67119  
penalty should be remitted, and certify the determination to the 67120  
taxpayer, to the county treasurer, and to the county auditor, who 67121  
shall correct the tax list and duplicate accordingly. The 67122  
commissioner may issue orders and instructions for the uniform 67123  
implementation of this section by all county auditors and county 67124  
treasurers, and such orders and instructions shall be followed by 67125  
such officers. 67126

(D) This section shall not provide to the taxpayer any remedy 67127  
with respect to any matter that the taxpayer may be authorized to 67128  
complain of under section 4503.06, 5715.19, 5717.02, ~~and~~ or 67129  
5727.47 of the Revised Code. 67130

(E) Applications for remission, and documents of any kind 67131  
related to those applications, filed with the tax commissioner 67132  
under this section, are public records within the meaning of 67133  
section 149.43 of the Revised Code, unless otherwise excepted 67134  
under that section. 67135

**Sec. 5717.011.** (A) As used in this chapter, "tax 67136  
administrator" has the same meaning as in section 718.01 of the 67137  
Revised Code. 67138

(B) Appeals from a municipal board of appeal created under 67139  
section 718.11 of the Revised Code may be taken by the taxpayer or 67140  
the tax administrator to the board of tax appeals or may be taken 67141  
by the taxpayer or the tax administrator to a court of common 67142  
pleas as otherwise provided by law. If the taxpayer or the tax 67143  
administrator elects to make an appeal to the board of tax appeals 67144  
or court of common pleas, the appeal shall be taken by the filing 67145  
of a notice of appeal with the board of tax appeals or court of 67146

common pleas, the municipal board of appeal, and the opposing party. The notice of appeal shall be filed within sixty days after the day the appellant receives notice of the decision issued under section 718.11 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the decision issued under section 718.11 of the Revised Code and shall specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) Upon the filing of a notice of appeal with the board of tax appeals, the municipal board of appeal shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper.

**Sec. 5717.03.** (A) A decision of the board of tax appeals on an appeal filed with it pursuant to section 5717.01, 5717.011, or

5717.02 of the Revised Code shall be entered of record on the 67179  
journal together with the date when the order is filed with the 67180  
secretary for journalization. 67181

(B) In case of an appeal from a decision of a county board of 67182  
revision, the board of tax appeals shall determine the taxable 67183  
value of the property whose valuation or assessment by the county 67184  
board of revision is complained of, or in the event the complaint 67185  
and appeal is against a discriminatory valuation, shall determine 67186  
a valuation which shall correct such discrimination, and shall 67187  
determine the liability of the property for taxation, if that 67188  
question is in issue, and ~~it~~ the board of tax appeals's decision 67189  
and the date when it was filed with the secretary for 67190  
journalization shall be certified by ~~it~~ the board by certified 67191  
mail to all persons who were parties to the appeal before ~~it~~ the 67192  
board, to the person in whose name the property is listed, or 67193  
sought to be listed, if such person is not a party to the appeal, 67194  
to the county auditor of the county in which the property involved 67195  
in the appeal is located, and to the tax commissioner. 67196

In correcting a discriminatory valuation, the board of tax 67197  
appeals shall increase or decrease the value of the property whose 67198  
valuation or assessment by the county board of revision is 67199  
complained of by a per cent or amount which will cause such 67200  
property to be listed and valued for taxation by an equal and 67201  
uniform rule. 67202

(C) In the case of an appeal from a review, redetermination, 67203  
or correction of a tax assessment, valuation, determination, 67204  
finding, computation, or order of the tax commissioner, the order 67205  
of the board of tax appeals and the date of the entry thereof upon 67206  
its journal shall be certified by ~~it~~ the board by certified mail 67207  
to all persons who were parties to the appeal before ~~it~~ the board, 67208  
the person in whose name the property is listed or sought to be 67209  
listed, if the decision determines the valuation or liability of 67210

property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or redetermination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board ~~its~~, the board's order and the date when ~~it~~ the order was filed by the secretary for journalization shall be certified by ~~it~~ the board by certified mail to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by ~~it~~ the board, and ~~its~~ the board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, ~~it~~ the board may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order, ~~which~~. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

**Sec. 5719.07.** Subject to the rules prescribed by the tax commissioner, a county treasurer charged with the collection of delinquent taxes may issue a certificate of release of the lien provided for in section 5719.04 of the Revised Code if the amount secured thereby has been paid or omitted from the delinquent tax list and duplicate pursuant to section 5719.06 of the Revised Code. The treasurer shall issue a certificate of partial discharge of any part of the real property subject to the lien ~~if he finds~~ after finding that the value of the part of the property remaining subject to the lien is at least double the amount of the delinquent taxes and all prior liens upon such real property. Such certificate shall be filed and recorded with the county recorder of the county in which the notice of lien has been filed, for which recording the recorder shall charge a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5727.111. The taxable property of each public utility, 67274  
except a railroad company, and of each interexchange 67275  
telecommunications company shall be assessed at the following 67276  
percentages of true value: 67277

(A)(1) Except as provided in division (A)(2) of this section, 67278  
fifty per cent in the case of a rural electric company; 67279

(2) For tax year 2001 and thereafter, fifty per cent in the 67280  
case of the taxable transmission and distribution property of a 67281  
rural electric company, and twenty-five per cent for all its other 67282  
taxable property; 67283

(B) In the case of a telephone or telegraph company, 67284  
twenty-five per cent for taxable property first subject to 67285  
taxation in this state for tax year 1995 or thereafter, and 67286  
~~eighty-eight per cent~~ the following for all other taxable 67287  
property: 67288

(1) For tax years prior to 2005, eighty-eight per cent; 67289

(2) For tax year 2005, sixty-seven per cent; 67290

(3) For tax year 2006, forty-six per cent; 67291

(4) For tax year 2007 and thereafter, twenty-five per cent. 67292

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 67293  
~~eighty-eight per cent in the case of a natural gas company;~~ 67294

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 67295  
per cent in the case of a natural gas company. 67296

(D) Eighty-eight per cent in the case of a pipe-line, 67297  
water-works, or heating company; 67298

(E)(1) Except as provided in division (E)(2) or (3) of this 67299  
section, one hundred per cent in the case of the taxable 67300  
production equipment of an electric company and eighty-eight per 67301  
cent for all its other taxable property; 67302

(2) For tax year 2001 and thereafter, eighty-eight per cent 67303  
in the case of the taxable transmission and distribution property 67304  
of an electric company, and twenty-five per cent for all its other 67305  
taxable property; 67306

(3) Property listed and assessed under divisions (B)(1) and 67307  
(2) of section 5711.22 of the Revised Code and leased to an 67308  
electric company shall continue to be assessed at one hundred per 67309  
cent for production equipment and eighty-eight per cent for all 67310  
such other taxable property until January 1, 2002. 67311

(F) Twenty-five per cent in the case of an interexchange 67312  
telecommunications company; 67313

(G) Twenty-five per cent in the case of a water 67314  
transportation company. 67315

**Sec. 5727.30.** (A) Except as provided in divisions (B) ~~and~~ 67316  
(C), and (D) of this section, each public utility, except railroad 67317  
companies, shall be subject to an annual excise tax, as provided 67318  
by sections 5727.31 to 5727.62 of the Revised Code, for the 67319  
privilege of owning property in this state or doing business in 67320  
this state during the twelve-month period next succeeding the 67321  
period upon which the tax is based. The tax shall be imposed 67322  
against each such public utility that, on the first day of such 67323  
twelve-month period, owns property in this state or is doing 67324  
business in this state, and the lien for the tax, including any 67325  
penalties and interest accruing thereon, shall attach on such day 67326  
to the property of the public utility in this state. 67327

(B) An electric company's or a rural electric company's gross 67328  
receipts received after April 30, 2001, are not subject to the 67329  
annual excise tax imposed by this section. 67330

(C) A natural gas company's gross receipts received after 67331  
April 30, 2000, are not subject to the annual excise tax imposed 67332

by this section. 67333

(D) A telephone company's gross receipts derived from amounts 67334  
billed to customers after June 30, 2004, are not subject to the 67335  
annual excise tax imposed by this section. Notwithstanding any 67336  
other provision of law, gross receipts derived from amounts billed 67337  
by a telephone company to customers prior to July 1, 2004, shall 67338  
be included in the telephone company's annual statement filed on 67339  
or before August 1, 2004, which shall be the last statement or 67340  
report filed under section 5727.31 of the Revised Code by a 67341  
telephone company. A telephone company shall not deduct from its 67342  
gross receipts included in that last statement any receipts it was 67343  
unable to collect from its customers for the period of July 1, 67344  
2003, to June 30, 2004. 67345

**Sec. 5727.32.** (A) For the purpose of the tax imposed by 67346  
section 5727.30 of the Revised Code, the statement required by 67347  
section 5727.31 of the Revised Code shall contain: 67348

(1) The name of the company; 67349

(2) The nature of the company, whether a person, association, 67350  
or corporation, and under the laws of what state or country 67351  
organized; 67352

(3) The location of its principal office; 67353

(4) The name and post-office address of the president, 67354  
secretary, auditor, treasurer, and superintendent or general 67355  
manager; 67356

(5) The name and post-office address of the chief officer or 67357  
managing agent of the company in this state; 67358

(6) The amount of the excise taxes paid or to be paid with 67359  
the reports made during the current calendar year as provided by 67360  
section 5727.31 of the Revised Code; 67361

(7) In the case of telegraph ~~and telephone~~ companies: 67362

(a) The gross receipts from all sources, whether messages, 67363  
telephone tolls, rentals, or otherwise, for business done within 67364  
this state, including all sums earned or charged, whether actually 67365  
received or not, for the year ending on the thirtieth day of June, 67366  
and the company's proportion of gross receipts for business done 67367  
by it within this state in connection with other companies, firms, 67368  
corporations, persons, or associations, but excluding all of the 67369  
following: 67370

(i) All of the receipts derived wholly from interstate 67371  
business or business done for or with the federal government; 67372

(ii) The receipts of amounts billed on behalf of other 67373  
entities; 67374

~~(iii) The receipts from sales to other telephone companies 67375  
for resale; 67376~~

~~(iv) The receipts from sales to providers of 67377  
telecommunications service for resale, receipts from incoming or 67378  
outgoing wide area transmission service or wide area transmission 67379  
type service, including eight hundred or eight hundred type 67380  
service, and receipts from private communications service. 67381~~

~~As used in this division, "receipts from sales to other 67382  
telephone companies for resale" and "receipts from sales to 67383  
providers of telecommunications service for resale" include but 67384  
are not limited to, receipts of carrier access charges. "Carrier 67385  
access charges" means compensation paid to the taxpayer telephone 67386  
company by another telephone company or by a provider of 67387  
telecommunications service for the use of the taxpayer's 67388  
facilities to originate or terminate telephone calls or 67389  
telecommunications service. 67390~~

(b) The total gross receipts for such period from business 67391  
done within this state. 67392

(8) In the case of all public utilities subject to the tax 67393  
imposed by section 5727.30 of the Revised Code, except telegraph 67394  
~~and telephone~~ companies: 67395

(a) The gross receipts of the company, actually received, 67396  
from all sources for business done within this state for the year 67397  
next preceding the first day of May, including the company's 67398  
proportion of gross receipts for business done by it within this 67399  
state in connection with other companies, firms, corporations, 67400  
persons, or associations, but excluding all both of the following: 67401

(i) Receipts from interstate business or business done for 67402  
the federal government; 67403

(ii) Receipts from sales to another public utility for 67404  
resale, provided such other public utility is subject to the tax 67405  
levied by section 5727.24 or 5727.30 of the Revised Code; 67406

~~(iii) Receipts from the transmission or delivery of 67407  
electricity to or for a rural electric company, provided that the 67408  
electricity that has been so transmitted or delivered is for 67409  
resale by the rural electric company. This division does not apply 67410  
to tax years 2002 and thereafter. 67411~~

~~(iv) Receipts of an electric company, derived from the 67412  
provision of electricity and other services to a qualified former 67413  
owner of the production facilities that generated the electricity 67414  
from which those receipts were derived. This division does not 67415  
apply to tax years 2002 and thereafter. As used in this division, 67416  
a "qualified former owner" means a person who meets both of the 67417  
following conditions: 67418~~

~~(I) On or before October 11, 1991, the person had sold to an 67419  
electric company part of the production facility at which the 67420  
electricity is generated, and, for at least twenty years prior to 67421  
that sale, the facility was used to generate electricity, but it 67422  
was not owned in whole or in part during that period by an 67423~~

~~electric company.~~ 67424

~~(II) At the time the electric company provided the 67425  
electricity or other services for which the exclusion is claimed, 67426  
the person, or a successor or assign of the person, owned not less 67427  
than twenty per cent of the production facility and the rights to 67428  
not less than twenty per cent of the production of that facility; 67429  
and the person, or a successor or assign of the person, engaged 67430  
primarily in a business other than providing electricity to 67431  
others.~~ 67432

~~(v) Receipts of a combined company derived from operating as 67433  
a natural gas company that is subject to the tax imposed by 67434  
section 5727.24 of the Revised Code. 67435~~

~~(b) The total gross receipts of the company, for the year 67436  
next preceding the first day of May, in this state from business 67437  
done within the state. 67438~~

~~(B) The reports required by section 5727.31 of the Revised 67439  
Code shall contain: 67440~~

~~(1) The name and principal mailing address of the company; 67441~~

~~(2) The total amount of the gross receipts excise taxes 67442  
charged or levied as based upon its last preceding annual 67443  
statement filed prior to the first day of January of the year in 67444  
which such report is filed; 67445~~

~~(3) The amount of the excise taxes due with the report as 67446  
provided by section 5727.31 of the Revised Code. 67447~~

**Sec. 5727.33.** ~~(A) For the purpose of computing the excise tax 67448  
imposed by section 5727.24 or 5727.30 of the Revised Code, the 67449  
entire gross receipts actually received from all sources for 67450  
business done within this state are taxable gross receipts, 67451  
excluding the receipts described in divisions (B), (C), and (D), 67452  
~~and (E)~~ of this section. The gross receipts for the tax year of 67453~~

each telegraph ~~and telephone~~ company shall be computed for the 67454  
period of the first day of July prior to the tax year to the 67455  
thirtieth day of June of the tax year. The gross receipts of each 67456  
natural gas company, including a combined company's taxable gross 67457  
receipts attributed to a natural gas company activity, shall be 67458  
computed in the manner required by section 5727.25 of the Revised 67459  
Code. The gross receipts for the tax year of any other public 67460  
utility subject to section 5727.30 of the Revised Code shall be 67461  
computed for the period of the first day of May prior to the tax 67462  
year to the thirtieth day of April of the tax year. 67463

(B) In ascertaining and determining the gross receipts of 67464  
each public utility subject to this section, the following gross 67465  
receipts are excluded: 67466

(1) All receipts derived wholly from interstate business; 67467

(2) All receipts derived wholly from business done for or 67468  
with the federal government; 67469

~~(3) All receipts derived wholly from the transmission or 67470  
delivery of electricity to or for a rural electric company, 67471  
provided that the electricity that has been so transmitted or 67472  
delivered is for resale by the rural electric company. This 67473  
division does not apply to tax years 2002 and thereafter. 67474~~

~~(4) All receipts from the sale of merchandise; 67475~~

~~(5)~~(4) All receipts from sales to other public utilities, 67476  
except railroad, and telegraph, ~~and telephone~~ companies, for 67477  
resale, provided the other public utility is subject to the tax 67478  
levied by section 5727.24 or 5727.30 of the Revised Code. 67479

~~(C) In ascertaining and determining the gross receipts of a 67480  
telephone company, the following gross receipts are excluded: 67481~~

~~(1) Receipts of amounts billed on behalf of other entities; 67482~~

~~(2) Receipts from sales to other telephone companies for 67483~~

~~resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;~~ 67484  
67485

~~(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service;~~ 67486  
67487  
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~~(4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;~~ 67489  
67490

~~(5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.~~ 67491  
67492  
67493

~~(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived are excluded. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:~~ 67494  
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~~(1) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or part during that period by an electric company.~~ 67502  
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~~(2) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than a twenty per cent ownership of the production facility and the rights to not less than twenty per cent of the production of that facility.~~ 67508  
67509  
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~~(E)(C) In ascertaining and determining the gross receipts of~~ 67514

a natural gas company, receipts billed on behalf of other entities 67515  
are excluded. The tax imposed by section 5729.811 of the Revised 67516  
Code, along with transportation and billing and collection fees 67517  
charged to other entities, shall be included in the gross receipts 67518  
of a natural gas company. 67519

~~(F)~~(D) In ascertaining and determining the gross receipts of 67520  
a combined company subject to the tax imposed by section 5727.30 67521  
of the Revised Code, all receipts derived from operating as a 67522  
natural gas company that are subject to the tax imposed by section 67523  
5727.24 of the Revised Code are excluded. 67524

~~(G)~~(E) Except as provided in division ~~(H)~~(F) of this section, 67525  
the amount ascertained by the commissioner under this section, 67526  
less a deduction of twenty-five thousand dollars, shall be the 67527  
taxable gross receipts of such companies for business done within 67528  
this state for that year. 67529

~~(H)~~(F) The amount ascertained under this section, less the 67530  
following deduction, shall be the taxable gross receipts of a 67531  
natural gas company or combined company subject to the tax imposed 67532  
by section 5727.24 of the Revised Code for business done within 67533  
this state: 67534

(1) For a natural gas company that files quarterly returns of 67535  
the tax imposed by section 5727.24 of the Revised Code, six 67536  
thousand two hundred fifty dollars for each quarterly return; 67537

(2) For a natural gas company that files an annual return of 67538  
the tax imposed by section 5727.24 of the Revised Code, 67539  
twenty-five thousand dollars for each annual return; 67540

(3) For a combined company, twenty-five thousand dollars on 67541  
the annual statement filed under section 5727.31 of the Revised 67542  
Code. A combined company shall not be entitled to a deduction in 67543  
computing gross receipts subject to the tax imposed by section 67544  
5727.24 of the Revised Code. 67545

Sec. 5727.56. Any public utility whose articles of 67546  
incorporation or license certificate to do or transact business in 67547  
this state has expired or has been canceled or revoked by the 67548  
secretary of state, as provided by law for failure to make any 67549  
report or return or to pay any tax or fee, upon payment to the 67550  
secretary of state of any additional fees and penalties required 67551  
to be paid to ~~him~~ the secretary of state, and upon the filing with 67552  
the secretary of state of a certificate from the tax commissioner 67553  
that it has complied with all the requirements of law as to 67554  
franchise or excise tax reports and paid all franchise or excise 67555  
taxes, fees, or penalties due thereon for every year of its 67556  
delinquency, and upon the payment to the secretary of state of an 67557  
additional fee of ten dollars, shall be reinstated and again 67558  
entitled to exercise its rights, privileges, and franchises in 67559  
this state, and the secretary of state shall cancel the entry of 67560  
cancellation or expiration to exercise its rights, privileges, and 67561  
franchises. If the reinstatement is not made within one year from 67562  
the date of the cancellation of its articles of incorporation or 67563  
date of the cancellation or expiration of its license to do 67564  
business, and it appears that articles of incorporation or license 67565  
certificate have been issued to a corporation of the same or 67566  
similar name, the applicant for reinstatement shall be required by 67567  
the secretary of state, as a condition prerequisite to such 67568  
reinstatement, to amend its articles by changing its name. A 67569  
certificate of reinstatement may be filed in the county recorder's 67570  
office of any county in the state, for which the recorder shall 67571  
charge and collect a base fee of three dollars for services and a 67572  
housing trust fund fee of three dollars pursuant to section 317.36 67573  
of the Revised Code. 67574

If a domestic public utility applying for reinstatement has 67575  
not previously designated an agent upon whom process may be served 67576  
as required by section 1701.07 of the Revised Code, such public 67577

utility shall at the time of reinstatement and as a prerequisite 67578  
thereto designate an agent in accordance with such section. 67579

Any officer, shareholder, creditor, or receiver of any such 67580  
public utility may at any time take all steps required by this 67581  
section to effect such reinstatement, and in such case the 67582  
designation of an agent upon whom process may be served shall not 67583  
be a prerequisite to the reinstatement of the public utility. 67584

**Sec. 5727.84.** (A) As used in this section and sections 67585  
5727.85, 5727.86, and 5727.87 of the Revised Code: 67586

(1) "School district" means a city, local, or exempted 67587  
village school district. 67588

(2) "Joint vocational school district" means a joint 67589  
vocational school district created under section 3311.16 of the 67590  
Revised Code, and includes a cooperative education school district 67591  
created under section 3311.52 or 3311.521 of the Revised Code and 67592  
a county school financing district created under section 3311.50 67593  
of the Revised Code. 67594

(3) "Local taxing unit" means a subdivision or taxing unit, 67595  
as defined in section 5705.01 of the Revised Code, a park district 67596  
created under Chapter 1545. of the Revised Code, or a township 67597  
park district established under section 511.23 of the Revised 67598  
Code, but excludes school districts and joint vocational school 67599  
districts. 67600

(4) "State education aid" means the sum of state aid amounts 67601  
computed for a school district or joint vocational school district 67602  
under Chapter 3317. of the Revised Code. 67603

(5) "State education aid offset" means the amount determined 67604  
for each school district or joint vocational school district under 67605  
division (A)(1) of section 5727.85 of the Revised Code. 67606

(6) "Recognized valuation" has the same meaning as in section 67607

3317.02 of the Revised Code.	67608
(7) "Electric company tax value loss" means the amount determined under division (D) of this section.	67609 67610
(8) "Natural gas company tax value loss" means the amount determined under division (E) of this section.	67611 67612
(9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.	67613 67614
(10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.	67615 67616
(11) "Fixed-rate levy loss" means the amount determined under division (G) of this section.	67617 67618
(12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.	67619 67620 67621 67622 67623
(13) "Fixed-sum levy loss" means the amount determined under division (H) of this section.	67624 67625
(14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.	67626 67627 67628
(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:	67629 67630 67631 67632
(1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, shall be credited to the general revenue fund.	67633 67634
(2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code.	67635 67636 67637

(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(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.

(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.

(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.

(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 67669  
this section. 67670

(C) The natural gas tax receipts fund is hereby created in 67671  
the state treasury and shall consist of money arising from the tax 67672  
imposed by section 5727.811 of the Revised Code. All money in the 67673  
fund shall be credited as follows: 67674

(1) Sixty-eight and seven-tenths per cent shall be credited 67675  
to the school district property tax replacement fund for the 67676  
purpose of making the payments described in section 5727.85 of the 67677  
Revised Code. 67678

(2) Thirty-one and three-tenths per cent shall be credited to 67679  
the local government property tax replacement fund for the purpose 67680  
of making the payments described in section 5727.86 of the Revised 67681  
Code. 67682

(3) Beginning in fiscal year 2007, if the revenue arising 67683  
from the tax levied by section 5727.811 of the Revised Code is 67684  
less than ninety million dollars, an amount equal to the 67685  
difference between the amount collected and ninety million dollars 67686  
shall be transferred from the general revenue fund to each of the 67687  
funds in divisions (C)(1) and (2) of this section in the same 67688  
percentages as if that amount had been collected as taxes under 67689  
section 5727.811 of the Revised Code. The tax commissioner shall 67690  
certify to the director of budget and management the amounts that 67691  
shall be transferred under this division. 67692

(D) Not later than January 1, 2002, the tax commissioner 67693  
shall determine for each taxing district its electric company tax 67694  
value loss, which is the sum of the applicable amounts described 67695  
in divisions (D)(1) ~~and (2)~~ to (3) of this section: 67696

(1) The difference obtained by subtracting the amount 67697  
described in division (D)(1)(b) from the amount described in 67698  
division (D)(1)(a) of this section. 67699

(a) The value of electric company and rural electric company  
tangible personal property as assessed by the tax commissioner for  
tax year 1998 on a preliminary assessment, or an amended  
preliminary assessment if issued prior to March 1, 1999, and as  
apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company  
tangible personal property as assessed by the tax commissioner for  
tax year 1998 had the property been apportioned to the taxing  
district for tax year 2001, and assessed at the rates in effect  
for tax year 2001.

(2) The difference obtained by subtracting the amount  
described in division (D)(2)(b) from the amount described in  
division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998  
of the assessed value from nuclear fuel materials and assemblies  
assessed against a person under Chapter 5711. of the Revised Code  
from the leasing of them to an electric company for those  
respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel  
materials and assemblies assessed under division (D)(2)(a) of this  
section for tax years 1996, 1997, and 1998, as reflected in the  
preliminary assessments, using an assessment rate of twenty-five  
per cent.

(3) In the case of a taxing district having a nuclear power  
plant within its territory, any amount, resulting in an electric  
company tax value loss, obtained by subtracting the amount  
described in division (D)(1) of this section from the difference  
obtained by subtracting the amount described in division (D)(3)(b)  
of this section from the amount described in division (D)(3)(a) of  
this section.

(a) The value of electric company tangible personal property

as assessed by the tax commissioner for tax year 2000 on a 67731  
preliminary assessment, or an amended preliminary assessment if 67732  
issued prior to March 1, 2001, and as apportioned to the taxing 67733  
district for tax year 2000; 67734

(b) The value of electric company tangible personal property 67735  
as assessed by the tax commissioner for tax year 2001 on a 67736  
preliminary assessment, or an amended preliminary assessment if 67737  
issued prior to March 1, 2002, and as apportioned to the taxing 67738  
district for tax year 2001. 67739

(E) Not later than January 1, 2002, the tax commissioner 67740  
shall determine for each taxing district its natural gas company 67741  
tax value loss, which is the sum of the amounts described in 67742  
divisions (E)(1) and (2) of this section: 67743

(1) The difference obtained by subtracting the amount 67744  
described in division (E)(1)(b) from the amount described in 67745  
division (E)(1)(a) of this section. 67746

(a) The value of all natural gas company tangible personal 67747  
property, other than property described in division (E)(2) of this 67748  
section, as assessed by the tax commissioner for tax year 1999 on 67749  
a preliminary assessment, or an amended preliminary assessment if 67750  
issued prior to March 1, 2000, and apportioned to the taxing 67751  
district for tax year 1999; 67752

(b) The value of all natural gas company tangible personal 67753  
property, other than property described in division (E)(2) of this 67754  
section, as assessed by the tax commissioner for tax year 1999 had 67755  
the property been apportioned to the taxing district for tax year 67756  
2001, and assessed at the rates in effect for tax year 2001. 67757

(2) The difference in the value of current gas obtained by 67758  
subtracting the amount described in division (E)(2)(b) from the 67759  
amount described in division (E)(2)(a) of this section. 67760

(a) The three-year average assessed value of current gas as 67761

assessed by the tax commissioner for tax years 1997, 1998, and 67762  
1999 on a preliminary assessment, or an amended preliminary 67763  
assessment if issued prior to March 1, 2001, and as apportioned in 67764  
the taxing district for those respective years; 67765

(b) The three-year average assessed value from current gas 67766  
under division (E)(2)(a) of this section for tax years 1997, 1998, 67767  
and 1999, as reflected in the preliminary assessment, using an 67768  
assessment rate of twenty-five per cent. 67769

(F) The tax commissioner may request that natural gas 67770  
companies, electric companies, and rural electric companies file a 67771  
report to help determine the tax value loss under divisions (D) 67772  
and (E) of this section. The report shall be filed within thirty 67773  
days of the commissioner's request. A company that fails to file 67774  
the report or does not timely file the report is subject to the 67775  
penalty in section 5727.60 of the Revised Code. 67776

(G) Not later than January 1, 2002, the tax commissioner 67777  
shall determine for each school district, joint vocational school 67778  
district, and local taxing unit its fixed-rate levy loss, which is 67779  
the sum of its electric company tax value loss multiplied by the 67780  
tax rate in effect in tax year 1998 for fixed-rate levies and its 67781  
natural gas company tax value loss multiplied by the tax rate in 67782  
effect in tax year 1999 for fixed-rate levies. 67783

(H) Not later than January 1, 2002, the tax commissioner 67784  
shall determine for each school district, joint vocational school 67785  
district, and local taxing unit its fixed-sum levy loss, which is 67786  
the amount obtained by subtracting the amount described in 67787  
division (H)(2) of this section from the amount described in 67788  
division (H)(1) of this section: 67789

(1) The sum of the electric company tax value loss multiplied 67790  
by the tax rate in effect in tax year 1998, and the natural gas 67791  
company tax value loss multiplied by the tax rate in effect in tax 67792

year 1999, for fixed-sum levies for all taxing districts within 67793  
each school district, joint vocational school district, and local 67794  
taxing unit. For the years 2002 through 2006, this computation 67795  
shall include school district emergency levies that existed in 67796  
1998 in the case of the electric company tax value loss, and 1999 67797  
in the case of the natural gas company tax value loss, and all 67798  
other fixed-sum levies that existed in 1998 in the case of the 67799  
electric company tax value loss and 1999 in the case of the 67800  
natural gas company tax value loss and continue to be charged in 67801  
the tax year preceding the distribution year. For the years 2007 67802  
through 2016 in the case of school district emergency levies, and 67803  
for all years after 2006 in the case of all other fixed-sum 67804  
levies, this computation shall exclude all fixed-sum levies that 67805  
existed in 1998 in the case of the electric company tax value loss 67806  
and 1999 in the case of the natural gas company tax value loss, 67807  
but are no longer in effect in the tax year preceding the 67808  
distribution year. For the purposes of this section, an emergency 67809  
levy that existed in 1998 in the case of the electric company tax 67810  
value loss, and 1999 in the case of the natural gas company tax 67811  
value loss, continues to exist in a year beginning on or after 67812  
January 1, 2007, but before January 1, 2017, if, in that year, the 67813  
board of education levies a school district emergency levy for an 67814  
annual sum at least equal to the annual sum levied by the board in 67815  
tax year 1998 or 1999, respectively, less the amount of the 67816  
payment certified under this division for 2002. 67817

(2) The total taxable value in tax year 1999 less the tax 67818  
value loss in each school district, joint vocational school 67819  
district, and local taxing unit multiplied by one-fourth of one 67820  
mill. 67821

If the amount computed under division (H) of this section for 67822  
any school district, joint vocational school district, or local 67823  
taxing unit is greater than zero, that amount shall equal the 67824

fixed-sum levy loss reimbursed pursuant to division (E) of section 67825  
5727.85 of the Revised Code or division (A)(2) of section 5727.86 67826  
of the Revised Code, and the one-fourth of one mill that is 67827  
subtracted under division (H)(2) of this section shall be 67828  
apportioned among all contributing fixed-sum levies in the 67829  
proportion of each levy to the sum of all fixed-sum levies within 67830  
each school district, joint vocational school district, or local 67831  
taxing unit. 67832

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 67833  
section, in computing the tax value loss, fixed-rate levy loss, 67834  
and fixed-sum levy loss, the tax commissioner shall use the 67835  
greater of the 1998 tax rate or the 1999 tax rate in the case of 67836  
levy losses associated with the electric company tax value loss, 67837  
but the 1999 tax rate shall not include for this purpose any tax 67838  
levy approved by the voters after June 30, 1999, and the tax 67839  
commissioner shall use the greater of the 1999 or the 2000 tax 67840  
rate in the case of levy losses associated with the natural gas 67841  
company tax value loss. 67842

(J) Not later than January 1, 2002, the tax commissioner 67843  
shall certify to the department of education the tax value loss 67844  
determined under divisions (D) and (E) of this section for each 67845  
taxing district, the fixed-rate levy loss calculated under 67846  
division (G) of this section, and the fixed-sum levy loss 67847  
calculated under division (H) of this section. The calculations 67848  
under divisions (G) and (H) of this section shall separately 67849  
display the levy loss for each levy eligible for reimbursement. 67850

(K) Not later than September 1, 2001, the tax commissioner 67851  
shall certify the amount of the fixed-sum levy loss to the county 67852  
auditor of each county in which a school district with a fixed-sum 67853  
levy loss has territory. 67854

**Sec. 5728.04.** (A) It is unlawful for any person to operate a 67855

commercial car with three or more axles when operated alone or as 67856  
part of a commercial tandem, a commercial car with two axles that 67857  
is to be operated as part of a commercial tandem with a gross 67858  
vehicle weight or a registered gross vehicle weight exceeding 67859  
twenty-six thousand pounds, or a commercial tractor when operated 67860  
alone or as part of a commercial tractor combination or commercial 67861  
tandem on a public highway ~~without~~ under either of the following 67862  
circumstances: 67863

(1) Without a ~~valid~~ fuel use permit for such commercial car 67864  
or commercial tractor. 67865

(2) With a suspended or surrendered fuel use permit for such 67866  
commercial car or commercial tractor. 67867

(B) The judge or magistrate of any court finding any person 67868  
guilty of unlawfully operating a commercial car or commercial 67869  
tractor as provided for in this section shall immediately notify 67870  
the tax commissioner of such violation and shall transmit to the 67871  
tax commissioner the name and the permanent address of the owner 67872  
of the commercial car or commercial tractor operated in violation 67873  
of this section, the registration number, the state of 67874  
registration, and the certificate of title number of the 67875  
commercial car or commercial tractor. The commercial car or 67876  
commercial tractor involved in a violation of division (A)(1) or 67877  
(2) of this section may be detained until a valid fuel use permit 67878  
is obtained or reinstated. 67879

**Sec. 5728.06.** (A) For the following purposes, an excise tax 67880  
is hereby imposed on the use of motor fuel to operate on the 67881  
public highways of this state a commercial car with three or more 67882  
axles operated alone or as part of a commercial tandem, a 67883  
commercial car with two axles operated as part of a commercial 67884  
tandem having a gross vehicle weight or registered gross vehicle 67885  
weight exceeding twenty-six thousand pounds, or a commercial 67886

tractor operated alone or as part of a commercial tractor 67887  
combination or commercial tandem: to provide revenue for 67888  
maintaining the state highway system, to widen existing surfaces 67889  
on such highways, to resurface such highways, to enable the 67890  
counties of the state properly to plan for, maintain, and repair 67891  
their roads, to enable the municipal corporations to plan, 67892  
construct, reconstruct, repave, widen, maintain, repair, clear, 67893  
and clean public highways, roads, and streets; to pay that portion 67894  
of the construction cost of a highway project that a county, 67895  
township, or municipal corporation normally would be required to 67896  
pay, but that the director of transportation, pursuant to division 67897  
(B) of section 5531.08 of the Revised Code, determines instead 67898  
will be paid from moneys in the highway operating fund; to 67899  
maintain and repair bridges and viaducts; to purchase, erect, and 67900  
maintain street and traffic signs and markers; to purchase, erect, 67901  
and maintain traffic lights and signals; to pay the costs 67902  
apportioned to the public under section 4907.47 of the Revised 67903  
Code; and to supplement revenue already available for such 67904  
purposes, to distribute equitably among those persons using the 67905  
privilege of driving motor vehicles upon such highways and streets 67906  
the cost of maintaining and repairing the same, and to pay the 67907  
interest, principal, and charges on bonds and other obligations 67908  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 67909  
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 67910  
imposed in the same amount as the motor fuel tax imposed under 67911  
Chapter 5735. of the Revised Code plus an additional tax of three 67912  
cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ 67913  
provided that the additional tax of shall be reduced to two cents 67914  
per gallon of motor fuel used ~~before~~ from July 1, 2004 through 67915  
June 30, 2005, as determined by the gallons consumed while 67916  
operated on the public highways of this state. Subject to section 67917  
5735.292 of the Revised Code, on and after July 1, 2005, the tax 67918  
shall be imposed in the same amount as the motor fuel tax imposed 67919

under Chapter 5735. of the Revised Code. Payment of the fuel use 67920  
tax shall be made by the purchase of motor fuel within Ohio of 67921  
such gallons as is equivalent to the gallons consumed while 67922  
operating such a motor vehicle on the public highways of this 67923  
state, or by direct remittance to the treasurer of state with the 67924  
fuel use tax return filed pursuant to section 5728.08 of the 67925  
Revised Code. 67926

Any person subject to the tax imposed under this section who 67927  
purchases motor fuel in this state for use in another state in 67928  
excess of the amount consumed while operating such motor vehicle 67929  
on the public highways of this state shall be allowed a credit 67930  
against the tax imposed by this section or a refund equal to the 67931  
motor fuel tax paid to this state on such excess. No such credit 67932  
or refund shall be allowed for taxes paid to any state that 67933  
imposes a tax on motor fuel purchased or obtained in this state 67934  
and used on the highways of such other state but does not allow a 67935  
similar credit or refund for the tax paid to this state on motor 67936  
fuel purchased or acquired in the other state and used on the 67937  
public highways of this state. 67938

The tax commissioner is authorized to determine whether such 67939  
credits or refunds are available and to prescribe such rules as 67940  
are required for the purpose of administering this chapter. 67941

(B) Within sixty days after the last day of each month, the 67942  
tax commissioner shall determine the amount of motor fuel tax 67943  
allowed as a credit against the tax imposed by this section. The 67944  
commissioner shall certify the amount to the director of budget 67945  
and management and the treasurer of state, who shall credit the 67946  
amount in accordance with section 5728.08 of the Revised Code from 67947  
current revenue arising from the tax levied by section 5735.05 of 67948  
the Revised Code. 67949

(C) The owner of each commercial car and commercial tractor 67950  
subject to sections 5728.01 to 5728.14 of the Revised Code is 67951

liable for the payment of the full amount of the taxes imposed by 67952  
this section. 67953

An owner who is a person regularly engaged, for compensation, 67954  
in the business of leasing or renting motor vehicles without 67955  
furnishing drivers may designate that the lessee of a motor 67956  
vehicle leased for a period of thirty days or more shall report 67957  
and pay the tax incurred during the duration of the lease. An 67958  
owner who is an independent contractor that furnishes both the 67959  
driver and motor vehicle, may designate that the person so 67960  
furnished with the driver and motor vehicle for a period of thirty 67961  
days or more shall report and pay the tax incurred during that 67962  
period. An independent contractor that is not an owner, but that 67963  
furnishes both the driver and motor vehicle and that has been 67964  
designated by the owner of the motor vehicle to report and pay the 67965  
tax, may designate that the person so furnished with driver and 67966  
motor vehicle for a period of thirty days or more shall report and 67967  
pay the tax incurred during that period. 67968

**Sec. 5728.99.** (A)(1) Except as provided in division (A)(2) of 67969  
this section, whoever violates any provision of sections 5728.01 67970  
to 5728.14 of the Revised Code, or any rule promulgated by the tax 67971  
commissioner under the authority of any provision of those 67972  
sections, for the violation of which no penalty is provided 67973  
elsewhere, shall be fined not less than twenty-five nor more than 67974  
one hundred dollars. 67975

(2) Division (A)(1) of this section does not apply to the 67976  
filing of any false or fraudulent return, application, or permit 67977  
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 67978  
The filing of any false or fraudulent return, application, or 67979  
permit under any of those sections is a violation of section 67980  
2921.13 of the Revised Code. 67981

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 67982

the Revised Code is guilty of a misdemeanor of the fourth degree. 67983

(2) Whoever violates division (A)(2) of section 5728.04 of 67984

the Revised Code is guilty of a felony of the fifth degree. 67985

**Sec. 5733.04.** As used in this chapter: 67986

(A) "Issued and outstanding shares of stock" applies to 67987  
nonprofit corporations, as provided in section 5733.01 of the 67988  
Revised Code, and includes, but is not limited to, membership 67989  
certificates and other instruments evidencing ownership of an 67990  
interest in such nonprofit corporations, and with respect to a 67991  
financial institution that does not have capital stock, "issued 67992  
and outstanding shares of stock" includes, but is not limited to, 67993  
ownership interests of depositors in the capital employed in such 67994  
an institution. 67995

(B) "Taxpayer" means a corporation subject to the tax imposed 67996  
by section 5733.06 of the Revised Code. 67997

(C) "Resident" means a corporation organized under the laws 67998  
of this state. 67999

(D) "Commercial domicile" means the principal place from 68000  
which the trade or business of the taxpayer is directed or 68001  
managed. 68002

(E) "Taxable year" means the period prescribed by division 68003  
(A) of section 5733.031 of the Revised Code upon the net income of 68004  
which the value of the taxpayer's issued and outstanding shares of 68005  
stock is determined under division (B) of section 5733.05 of the 68006  
Revised Code or the period prescribed by division (A) of section 68007  
5733.031 of the Revised Code that immediately precedes the date as 68008  
of which the total value of the corporation is determined under 68009  
division (A) or (C) of section 5733.05 of the Revised Code. 68010

(F) "Tax year" means the calendar year in and for which the 68011  
tax imposed by section 5733.06 of the Revised Code is required to 68012

be paid. 68013

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 68014  
68015

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code. 68016  
68017

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments: 68018  
68019  
68020  
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(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first. 68023  
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(b) For losses incurred in taxable years ending on or before 68044  
December 31, 1981, the designated carryover period shall be the 68045  
five consecutive taxable years after the taxable year in which the 68046  
net operating loss occurred. For losses incurred in taxable years 68047  
ending on or after January 1, 1982, and beginning before August 6, 68048  
1997, the designated carryover period shall be the fifteen 68049  
consecutive taxable years after the taxable year in which the net 68050  
operating loss occurs. For losses incurred in taxable years 68051  
beginning on or after August 6, 1997, the designated carryover 68052  
period shall be the twenty consecutive taxable years after the 68053  
taxable year in which the net operating loss occurs. 68054

(c) The tax commissioner may require a taxpayer to furnish 68055  
any information necessary to support a claim for deduction under 68056  
division (I)(1)(a) of this section and no deduction shall be 68057  
allowed unless the information is furnished. 68058

(2) Deduct any amount included in net income by application 68059  
of section 78 or 951 of the Internal Revenue Code, amounts 68060  
received for royalties, technical or other services derived from 68061  
sources outside the United States, and dividends received from a 68062  
subsidiary, associate, or affiliated corporation that neither 68063  
transacts any substantial portion of its business nor regularly 68064  
maintains any substantial portion of its assets within the United 68065  
States. For purposes of determining net foreign source income 68066  
deductible under division (I)(2) of this section, the amount of 68067  
gross income from all such sources other than dividend income and 68068  
income derived by application of section 78 or 951 of the Internal 68069  
Revenue Code shall be reduced by: 68070

(a) The amount of any reimbursed expenses for personal 68071  
services performed by employees of the taxpayer for the 68072  
subsidiary, associate, or affiliated corporation; 68073

(b) Ten per cent of the amount of royalty income and 68074

technical assistance fees; 68075

(c) Fifteen per cent of the amount of all other income. 68076

The amounts described in divisions (I)(2)(a) to (c) of this 68077  
section are deemed to be the expenses attributable to the 68078  
production of deductible foreign source income unless the taxpayer 68079  
shows, by clear and convincing evidence, less actual expenses, or 68080  
the tax commissioner shows, by clear and convincing evidence, more 68081  
actual expenses. 68082

(3) Add any loss or deduct any gain resulting from the sale, 68083  
exchange, or other disposition of a capital asset, or an asset 68084  
described in section 1231 of the Internal Revenue Code, to the 68085  
extent that such loss or gain occurred prior to the first taxable 68086  
year on which the tax provided for in section 5733.06 of the 68087  
Revised Code is computed on the corporation's net income. For 68088  
purposes of division (I)(3) of this section, the amount of the 68089  
prior loss or gain shall be measured by the difference between the 68090  
original cost or other basis of the asset and the fair market 68091  
value as of the beginning of the first taxable year on which the 68092  
tax provided for in section 5733.06 of the Revised Code is 68093  
computed on the corporation's net income. At the option of the 68094  
taxpayer, the amount of the prior loss or gain may be a percentage 68095  
of the gain or loss, which percentage shall be determined by 68096  
multiplying the gain or loss by a fraction, the numerator of which 68097  
is the number of months from the acquisition of the asset to the 68098  
beginning of the first taxable year on which the fee provided in 68099  
section 5733.06 of the Revised Code is computed on the 68100  
corporation's net income, and the denominator of which is the 68101  
number of months from the acquisition of the asset to the sale, 68102  
exchange, or other disposition of the asset. The adjustments 68103  
described in this division do not apply to any gain or loss where 68104  
the gain or loss is recognized by a qualifying taxpayer, as 68105  
defined in section 5733.0510 of the Revised Code, with respect to 68106

a qualifying taxable event, as defined in that section. 681107

(4) Deduct the dividend received deduction provided by 681108  
section 243 of the Internal Revenue Code. 681109

(5) Deduct any interest or interest equivalent on public 681110  
obligations and purchase obligations to the extent included in 681111  
federal taxable income. As used in divisions (I)(5) and (6) of 681112  
this section, "public obligations," "purchase obligations," and 681113  
"interest or interest equivalent" have the same meanings as in 681114  
section 5709.76 of the Revised Code. 681115

(6) Add any loss or deduct any gain resulting from the sale, 681116  
exchange, or other disposition of public obligations to the extent 681117  
included in federal taxable income. 681118

(7) To the extent not otherwise allowed, deduct any dividends 681119  
or distributions received by a taxpayer from a public utility, 681120  
excluding an electric company and a combined company, and, for tax 681121  
years 2005 and thereafter, a telephone company, if the taxpayer 681122  
owns at least eighty per cent of the issued and outstanding common 681123  
stock of the public utility. As used in division (I)(7) of this 681124  
section, "public utility" means a public utility as defined in 681125  
Chapter 5727. of the Revised Code, whether or not the public 681126  
utility is doing business in the state. 681127

(8) To the extent not otherwise allowed, deduct any dividends 681128  
received by a taxpayer from an insurance company, if the taxpayer 681129  
owns at least eighty per cent of the issued and outstanding common 681130  
stock of the insurance company. As used in division (I)(8) of this 681131  
section, "insurance company" means an insurance company that is 681132  
taxable under Chapter 5725. or 5729. of the Revised Code. 681133

(9) Deduct expenditures for modifying existing buildings or 681134  
structures to meet American national standards institute standard 681135  
A-117.1-1961 (R-1971), as amended; provided, that no deduction 681136  
shall be allowed to the extent that such deduction is not 681137

permitted under federal law or under rules of the tax 68138  
commissioner. Those deductions as are allowed may be taken over a 68139  
period of five years. The tax commissioner shall adopt rules under 68140  
Chapter 119. of the Revised Code establishing reasonable 68141  
limitations on the extent that expenditures for modifying existing 68142  
buildings or structures are attributable to the purpose of making 68143  
the buildings or structures accessible to and usable by physically 68144  
handicapped persons. 68145

(10) Deduct the amount of wages and salaries, if any, not 68146  
otherwise allowable as a deduction but that would have been 68147  
allowable as a deduction in computing federal taxable income 68148  
before operating loss deduction and special deductions for the 68149  
taxable year, had the targeted jobs credit allowed and determined 68150  
under sections 38, 51, and 52 of the Internal Revenue Code not 68151  
been in effect. 68152

(11) Deduct net interest income on obligations of the United 68153  
States and its territories and possessions or of any authority, 68154  
commission, or instrumentality of the United States to the extent 68155  
the laws of the United States prohibit inclusion of the net 68156  
interest for purposes of determining the value of the taxpayer's 68157  
issued and outstanding shares of stock under division (B) of 68158  
section 5733.05 of the Revised Code. As used in division (I)(11) 68159  
of this section, "net interest" means interest net of any expenses 68160  
taken on the federal income tax return that would not have been 68161  
allowed under section 265 of the Internal Revenue Code if the 68162  
interest were exempt from federal income tax. 68163

(12)(a) Except as set forth in division (I)(12)(d) of this 68164  
section, to the extent not included in computing the taxpayer's 68165  
federal taxable income before operating loss deduction and special 68166  
deductions, add gains and deduct losses from direct or indirect 68167  
sales, exchanges, or other dispositions, made by a related entity 68168  
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 68169

constructive investment in the stock or debt of another entity, 68170  
unless the gain or loss has been included in computing the federal 68171  
taxable income before operating loss deduction and special 68172  
deductions of another taxpayer with a more closely related 68173  
investment in the stock or debt of the other entity. The amount of 68174  
gain added or loss deducted shall not exceed the product obtained 68175  
by multiplying such gain or loss by the taxpayer's proportionate 68176  
share, directly, indirectly, beneficially, or constructively, of 68177  
the outstanding stock of the related entity immediately prior to 68178  
the direct or indirect sale, exchange, or other disposition. 68179

(b) Except as set forth in division (I)(12)(e) of this 68180  
section, to the extent not included in computing the taxpayer's 68181  
federal taxable income before operating loss deduction and special 68182  
deductions, add gains and deduct losses from direct or indirect 68183  
sales, exchanges, or other dispositions made by a related entity 68184  
who is not a taxpayer, of intangible property other than stock, 68185  
securities, and debt, if such property was owned, or used in whole 68186  
or in part, at any time prior to or at the time of the sale, 68187  
exchange, or disposition by either the taxpayer or by a related 68188  
entity that was a taxpayer at any time during the related entity's 68189  
ownership or use of such property, unless the gain or loss has 68190  
been included in computing the federal taxable income before 68191  
operating loss deduction and special deductions of another 68192  
taxpayer with a more closely related ownership or use of such 68193  
intangible property. The amount of gain added or loss deducted 68194  
shall not exceed the product obtained by multiplying such gain or 68195  
loss by the taxpayer's proportionate share, directly, indirectly, 68196  
beneficially, or constructively, of the outstanding stock of the 68197  
related entity immediately prior to the direct or indirect sale, 68198  
exchange, or other disposition. 68199

(c) As used in division (I)(12) of this section, "related 68200  
entity" means those entities described in divisions (I)(12)(c)(i) 68201

to (iii) of this section: 68202

(i) An individual stockholder, or a member of the 68203  
stockholder's family enumerated in section 318 of the Internal 68204  
Revenue Code, if the stockholder and the members of the 68205  
stockholder's family own, directly, indirectly, beneficially, or 68206  
constructively, in the aggregate, at least fifty per cent of the 68207  
value of the taxpayer's outstanding stock; 68208

(ii) A stockholder, or a stockholder's partnership, estate, 68209  
trust, or corporation, if the stockholder and the stockholder's 68210  
partnerships, estates, trusts, and corporations own directly, 68211  
indirectly, beneficially, or constructively, in the aggregate, at 68212  
least fifty per cent of the value of the taxpayer's outstanding 68213  
stock; 68214

(iii) A corporation, or a party related to the corporation in 68215  
a manner that would require an attribution of stock from the 68216  
corporation to the party or from the party to the corporation 68217  
under division (I)(12)(c)(iv) of this section, if the taxpayer 68218  
owns, directly, indirectly, beneficially, or constructively, at 68219  
least fifty per cent of the value of the corporation's outstanding 68220  
stock. 68221

(iv) The attribution rules of section 318 of the Internal 68222  
Revenue Code apply for purposes of determining whether the 68223  
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 68224  
section have been met. 68225

(d) For purposes of the adjustments required by division 68226  
(I)(12)(a) of this section, the term "investment in the stock or 68227  
debt of another entity" means only those investments where the 68228  
taxpayer and the taxpayer's related entities directly, indirectly, 68229  
beneficially, or constructively own, in the aggregate, at any time 68230  
during the twenty-four month period commencing one year prior to 68231  
the direct or indirect sale, exchange, or other disposition of 68232

such investment at least fifty per cent or more of the value of 68233  
either the outstanding stock or such debt of such other entity. 68234

(e) For purposes of the adjustments required by division 68235  
(I)(12)(b) of this section, the term "related entity" excludes all 68236  
of the following: 68237

(i) Foreign corporations as defined in section 7701 of the 68238  
Internal Revenue Code; 68239

(ii) Foreign partnerships as defined in section 7701 of the 68240  
Internal Revenue Code; 68241

(iii) Corporations, partnerships, estates, and trusts created 68242  
or organized in or under the laws of the Commonwealth of Puerto 68243  
Rico or any possession of the United States; 68244

(iv) Foreign estates and foreign trusts as defined in section 68245  
7701 of the Internal Revenue Code. 68246

The exclusions described in divisions (I)(12)(e)(i) to (iv) 68247  
of this section do not apply if the corporation, partnership, 68248  
estate, or trust is described in any one of divisions (C)(1) to 68249  
(5) of section 5733.042 of the Revised Code. 68250

(f) Nothing in division (I)(12) of this section shall require 68251  
or permit a taxpayer to add any gains or deduct any losses 68252  
described in divisions (I)(12)(f)(i) and (ii) of this section: 68253

(i) Gains or losses recognized for federal income tax 68254  
purposes by an individual, estate, or trust without regard to the 68255  
attribution rules described in division (I)(12)(c) of this 68256  
section; 68257

(ii) A related entity's gains or losses described in division 68258  
(I)(12)(b) of this section if the taxpayer's ownership of or use 68259  
of such intangible property was limited to a period not exceeding 68260  
nine months and was attributable to a transaction or a series of 68261  
transactions executed in accordance with the election or elections 68262

made by the taxpayer or a related entity pursuant to section 338 68263  
of the Internal Revenue Code. 68264

(13) Any adjustment required by section 5733.042 of the 68265  
Revised Code. 68266

(14) Add any amount claimed as a credit under section 68267  
5733.0611 of the Revised Code to the extent that such amount 68268  
satisfies either of the following: 68269

(a) It was deducted or excluded from the computation of the 68270  
corporation's taxable income before operating loss deduction and 68271  
special deductions as required to be reported for the 68272  
corporation's taxable year under the Internal Revenue Code; 68273

(b) It resulted in a reduction of the corporation's taxable 68274  
income before operating loss deduction and special deductions as 68275  
required to be reported for any of the corporation's taxable years 68276  
under the Internal Revenue Code. 68277

(15) Deduct the amount contributed by the taxpayer to an 68278  
individual development account program established by a county 68279  
department of job and family services pursuant to sections 329.11 68280  
to 329.14 of the Revised Code for the purpose of matching funds 68281  
deposited by program participants. On request of the tax 68282  
commissioner, the taxpayer shall provide any information that, in 68283  
the tax commissioner's opinion, is necessary to establish the 68284  
amount deducted under division (I)(15) of this section. 68285

(16) Any adjustment required by section 5733.0510 or 68286  
5733.0511 of the Revised Code. 68287

(17)(a) Add five-sixths of the amount of depreciation expense 68288  
allowed under subsection (k) of section 168 of the Internal 68289  
Revenue Code, including a person's proportionate or distributive 68290  
share of the amount of depreciation expense allowed by that 68291  
subsection to any pass-through entity in which the person has 68292  
direct or indirect ownership. The tax commissioner, under 68293

procedures established by the commissioner, may waive the add-back 68294  
related to a pass-through entity if the person owns, directly or 68295  
indirectly, less than five per cent of the pass-through entity. 68296

(b) Nothing in division (I)(17) of this section shall be 68297  
construed to adjust or modify the adjusted basis of any asset. 68298

(c) To the extent the add-back is attributable to property 68299  
generating income or loss allocable under section 5733.051 of the 68300  
Revised Code, the add-back shall be allocated to the same location 68301  
as the income or loss generated by that property. Otherwise, the 68302  
add-back shall be apportioned, subject to division (B)(2)(d) of 68303  
section 5733.05 of the Revised Code. 68304

(18)(a) If a person is required to make the add-back under 68305  
division (I)(17)(a) of this section for a tax year, the person 68306  
shall deduct one-fifth of the amount added back for each of the 68307  
succeeding five tax years. 68308

(b) If the amount deducted under division (I)(18)(a) of this 68309  
section is attributable to an add-back allocated under division 68310  
(I)(17)(c) of this section, the amount deducted shall be allocated 68311  
to the same location. Otherwise, the amount shall be apportioned 68312  
using the apportionment factors for the taxable year in which the 68313  
deduction is taken, subject to division (B)(2)(d) of section 68314  
5733.05 of the Revised Code. 68315

(J) Any term used in this chapter has the same meaning as 68316  
when used in comparable context in the laws of the United States 68317  
relating to federal income taxes unless a different meaning is 68318  
clearly required. Any reference in this chapter to the Internal 68319  
Revenue Code includes other laws of the United States relating to 68320  
federal income taxes. 68321

(K) "Financial institution" has the meaning given by section 68322  
5725.01 of the Revised Code but does not include a production 68323  
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 68324

(L)(1) A "qualifying holding company" is any corporation 68325  
satisfying all of the following requirements: 68326

(a) Subject to divisions (L)(2) and (3) of this section, the 68327  
net book value of the corporation's intangible assets is greater 68328  
than or equal to ninety per cent of the net book value of all of 68329  
its assets and at least fifty per cent of the net book value of 68330  
all of its assets represents direct or indirect investments in the 68331  
equity of, loans and advances to, and accounts receivable due from 68332  
related members; 68333

(b) At least ninety per cent of the corporation's gross 68334  
income for the taxable year is attributable to the following: 68335

(i) The maintenance, management, ownership, acquisition, use, 68336  
and disposition of its intangible property, its aircraft the use 68337  
of which is not subject to regulation under 14 C.F.R. part 121 or 68338  
part 135, and any real property described in division (L)(2)(c) of 68339  
this section; 68340

(ii) The collection and distribution of income from such 68341  
property. 68342

(c) The corporation is not a financial institution on the 68343  
last day of the taxable year ending prior to the first day of the 68344  
tax year; 68345

(d) The corporation's related members make a good faith and 68346  
reasonable effort to make timely and fully the adjustments 68347  
required by division (C)(2) of section 5733.05 of the Revised Code 68348  
and to pay timely and fully all uncontested taxes, interest, 68349  
penalties, and other fees and charges imposed under this chapter; 68350

(e) Subject to division (L)(4) of this section, the 68351  
corporation elects to be treated as a qualifying holding company 68352  
for the tax year. 68353

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 68354

of this section that does not elect to be a qualifying holding 68355  
company is not a qualifying holding company for the purposes of 68356  
this chapter. 68357

(2)(a)(i) For purposes of making the ninety per cent 68358  
computation under division (L)(1)(a) of this section, the net book 68359  
value of the corporation's assets shall not include the net book 68360  
value of aircraft or real property described in division 68361  
(L)(1)(b)(i) of this section. 68362

(ii) For purposes of making the fifty per cent computation 68363  
under division (L)(1)(a) of this section, the net book value of 68364  
assets shall include the net book value of aircraft or real 68365  
property described in division (L)(1)(b)(i) of this section. 68366

(b)(i) As used in division (L) of this section, "intangible 68367  
asset" includes, but is not limited to, the corporation's direct 68368  
interest in each pass-through entity only if at all times during 68369  
the corporation's taxable year ending prior to the first day of 68370  
the tax year the corporation's and the corporation's related 68371  
members' combined direct and indirect interests in the capital or 68372  
profits of such pass-through entity do not exceed fifty per cent. 68373  
If the corporation's interest in the pass-through entity is an 68374  
intangible asset for that taxable year, then the distributive 68375  
share of any income from the pass-through entity shall be income 68376  
from an intangible asset for that taxable year. 68377

(ii) If a corporation's and the corporation's related 68378  
members' combined direct and indirect interests in the capital or 68379  
profits of a pass-through entity exceed fifty per cent at any time 68380  
during the corporation's taxable year ending prior to the first 68381  
day of the tax year, "intangible asset" does not include the 68382  
corporation's direct interest in the pass-through entity, and the 68383  
corporation shall include in its assets its proportionate share of 68384  
the assets of any such pass-through entity and shall include in 68385  
its gross income its distributive share of the gross income of 68386

such pass-through entity in the same form as was earned by the 68387  
pass-through entity. 68388

(iii) A pass-through entity's direct or indirect 68389  
proportionate share of any other pass-through entity's assets 68390  
shall be included for the purpose of computing the corporation's 68391  
proportionate share of the pass-through entity's assets under 68392  
division (L)(2)(b)(ii) of this section, and such pass-through 68393  
entity's distributive share of any other pass-through entity's 68394  
gross income shall be included for purposes of computing the 68395  
corporation's distributive share of the pass-through entity's 68396  
gross income under division (L)(2)(b)(ii) of this section. 68397

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 68398  
(2)(a)(i), and (2)(a)(ii) of this section, real property is 68399  
described in division (L)(2)(c) of this section only if all of the 68400  
following conditions are present at all times during the taxable 68401  
year ending prior to the first day of the tax year: 68402

(i) The real property serves as the headquarters of the 68403  
corporation's trade or business, or is the place from which the 68404  
corporation's trade or business is principally managed or 68405  
directed; 68406

(ii) Not more than ten per cent of the value of the real 68407  
property and not more than ten per cent of the square footage of 68408  
the building or buildings that are part of the real property is 68409  
used, made available, or occupied for the purpose of providing, 68410  
acquiring, transferring, selling, or disposing of tangible 68411  
property or services in the normal course of business to persons 68412  
other than related members, the corporation's employees and their 68413  
families, and such related members' employees and their families. 68414

(d) As used in division (L) of this section, "related member" 68415  
has the same meaning as in division (A)(6) of section 5733.042 of 68416  
the Revised Code without regard to division (B) of that section. 68417

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year. 68418  
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(4) With respect to the election described in division (L)(1)(e) of this section: 68422  
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(a) The election need not accompany a timely filed report; 68424

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment; 68425  
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(c) The election is not irrevocable; 68429

(d) The election applies only to the tax year specified by the corporation; 68430  
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(e) The corporation's related members comply with division (L)(1)(d) of this section. 68432  
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Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter. 68434  
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(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code. 68436  
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(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state. 68439  
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(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal 68442  
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income tax purposes as an association taxed as a corporation. 68448

(P) "Electric company," ~~and~~ "combined company," and 68449  
"telephone company" have the same meanings as in section 5727.01 68450  
of the Revised Code. 68451

**Sec. 5733.05.** As used in this section, "qualified research" 68452  
means laboratory research, experimental research, and other 68453  
similar types of research; research in developing or improving a 68454  
product; or research in developing or improving the means of 68455  
producing a product. It does not include market research, consumer 68456  
surveys, efficiency surveys, management studies, ordinary testing 68457  
or inspection of materials or products for quality control, 68458  
historical research, or literary research. "Product" as used in 68459  
this paragraph does not include services or intangible property. 68460

The annual report determines the value of the issued and 68461  
outstanding shares of stock of the taxpayer, which under division 68462  
(A) or divisions (B) and (C) of this section is the base or 68463  
measure of the franchise tax liability. Such determination shall 68464  
be made as of the date shown by the report to have been the 68465  
beginning of the corporation's annual accounting period that 68466  
includes the first day of January of the tax year. For the 68467  
purposes of this chapter, the value of the issued and outstanding 68468  
shares of stock of any corporation that is a financial institution 68469  
shall be deemed to be the value as calculated in accordance with 68470  
division (A) of this section. For the purposes of this chapter, 68471  
the value of the issued and outstanding shares of stock of any 68472  
corporation that is not a financial institution shall be deemed to 68473  
be the values as calculated in accordance with divisions (B) and 68474  
(C) of this section. Except as otherwise required by this section 68475  
or section 5733.056 of the Revised Code, the value of a taxpayer's 68476  
issued and outstanding shares of stock under division (A) or (C) 68477  
of this section does not include any amount that is treated as a 68478

liability under generally accepted accounting principles. 68479

(A) The total value, as shown by the books of the financial 68480  
institution, of its capital, surplus, whether earned or unearned, 68481  
undivided profits, and reserves shall be determined as prescribed 68482  
by section 5733.056 of the Revised Code for tax years 1998 and 68483  
thereafter. 68484

(B) The sum of the corporation's net income during the 68485  
corporation's taxable year, allocated or apportioned to this state 68486  
as prescribed in divisions (B)(1) and (2) of this section, and 68487  
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 68488  
5733.059, and 5733.0510 of the Revised Code: 68489

(1) The net income allocated to this state as provided by 68490  
section 5733.051 of the Revised Code. 68491

(2) The amount of Ohio apportioned net income from sources 68492  
other than those allocated under section 5733.051 of the Revised 68493  
Code, which shall be determined by multiplying the corporation's 68494  
net income by a fraction. The numerator of the fraction is the sum 68495  
of the following products: the property factor multiplied by 68496  
twenty, the payroll factor multiplied by twenty, and the sales 68497  
factor multiplied by sixty. The denominator of the fraction is one 68498  
hundred, provided that the denominator shall be reduced by twenty 68499  
if the property factor has a denominator of zero, by twenty if the 68500  
payroll factor has a denominator of zero, and by sixty if the 68501  
sales factor has a denominator of zero. 68502

The property, payroll, and sales factors shall be determined 68503  
as follows: 68504

(a) The property factor is a fraction the numerator of which 68505  
is the average value of the corporation's real and tangible 68506  
personal property owned or rented, and used in the trade or 68507  
business in this state during the taxable year, and the 68508  
denominator of which is the average value of all the corporation's 68509

real and tangible personal property owned or rented, and used in 68510  
the trade or business everywhere during such year. There shall be 68511  
excluded from the numerator and denominator of the property factor 68512  
the original cost of all of the following property within Ohio: 68513  
property with respect to which a "pollution control facility" 68514  
certificate has been issued pursuant to section 5709.21 of the 68515  
Revised Code; property with respect to which an "industrial water 68516  
pollution control certificate" has been issued pursuant to that 68517  
section or former section 6111.31 of the Revised Code; and 68518  
property used exclusively during the taxable year for qualified 68519  
research. 68520

(i) Property owned by the corporation is valued at its 68521  
original cost. Property rented by the corporation is valued at 68522  
eight times the net annual rental rate. "Net annual rental rate" 68523  
means the annual rental rate paid by the corporation less any 68524  
annual rental rate received by the corporation from subrentals. 68525

(ii) The average value of property shall be determined by 68526  
averaging the values at the beginning and the end of the taxable 68527  
year, but the tax commissioner may require the averaging of 68528  
monthly values during the taxable year, if reasonably required to 68529  
reflect properly the average value of the corporation's property. 68530

(b) The payroll factor is a fraction the numerator of which 68531  
is the total amount paid in this state during the taxable year by 68532  
the corporation for compensation, and the denominator of which is 68533  
the total compensation paid everywhere by the corporation during 68534  
such year. There shall be excluded from the numerator and the 68535  
denominator of the payroll factor the total compensation paid in 68536  
this state to employees who are primarily engaged in qualified 68537  
research. 68538

(i) Compensation means any form of remuneration paid to an 68539  
employee for personal services. 68540

(ii) Compensation is paid in this state if: (1) the 68541  
recipient's service is performed entirely within this state, (2) 68542  
the recipient's service is performed both within and without this 68543  
state, but the service performed without this state is incidental 68544  
to the recipient's service within this state, (3) some of the 68545  
service is performed within this state and either the base of 68546  
operations, or if there is no base of operations, the place from 68547  
which the service is directed or controlled is within this state, 68548  
or the base of operations or the place from which the service is 68549  
directed or controlled is not in any state in which some part of 68550  
the service is performed, but the recipient's residence is in this 68551  
state. 68552

(iii) Compensation is paid in this state to any employee of a 68553  
common or contract motor carrier corporation, who performs the 68554  
employee's regularly assigned duties on a motor vehicle in more 68555  
than one state, in the same ratio by which the mileage traveled by 68556  
such employee within the state bears to the total mileage traveled 68557  
by such employee everywhere during the taxable year. 68558

(c) Except as provided in section 5733.059 of the Revised 68559  
Code, the sales factor is a fraction the numerator of which is the 68560  
total sales in this state by the corporation during the taxable 68561  
year, and the denominator of which is the total sales by the 68562  
corporation everywhere during such year. In determining the 68563  
numerator and denominator of the sales factor, receipts from the 68564  
sale or other disposal of a capital asset or an asset described in 68565  
section 1231 of the Internal Revenue Code shall be eliminated. 68566  
Also, in determining the numerator and denominator of the sales 68567  
factor, in the case of a reporting corporation owning at least 68568  
eighty per cent of the issued and outstanding common stock of one 68569  
or more insurance companies or public utilities, except an 68570  
electric company and a combined company, and, for tax years 2005 68571  
and thereafter, a telephone company, or owning at least 68572

twenty-five per cent of the issued and outstanding common stock of 68573  
one or more financial institutions, receipts received by the 68574  
reporting corporation from such utilities, insurance companies, 68575  
and financial institutions shall be eliminated. 68576

For the purpose of this section and section 5733.03 of the 68577  
Revised Code, sales of tangible personal property are in this 68578  
state where such property is received in this state by the 68579  
purchaser. In the case of delivery of tangible personal property 68580  
by common carrier or by other means of transportation, the place 68581  
at which such property is ultimately received after all 68582  
transportation has been completed shall be considered as the place 68583  
at which such property is received by the purchaser. Direct 68584  
delivery in this state, other than for purposes of transportation, 68585  
to a person or firm designated by a purchaser constitutes delivery 68586  
to the purchaser in this state, and direct delivery outside this 68587  
state to a person or firm designated by a purchaser does not 68588  
constitute delivery to the purchaser in this state, regardless of 68589  
where title passes or other conditions of sale. 68590

Except as provided in section 5733.059 of the Revised Code, 68591  
sales, other than sales of tangible personal property, are in this 68592  
state if either: 68593

(i) The income-producing activity is performed solely in this 68594  
state; 68595

(ii) The income-producing activity is performed both within 68596  
and without this state and a greater proportion of the 68597  
income-producing activity is performed within this state than in 68598  
any other state, based on costs of performance. 68599

(d) If the allocation and apportionment provisions of 68600  
division (B) of this section do not fairly represent the extent of 68601  
the taxpayer's business activity in this state, the taxpayer may 68602  
request, which request must be in writing and must accompany the 68603

report, timely filed petition for reassessment, or timely filed 68604  
amended report, or the tax commissioner may require, in respect to 68605  
all or any part of the taxpayer's allocated or apportioned base, 68606  
if reasonable, any one or more of the following: 68607

(i) Separate accounting; 68608

(ii) The exclusion of any one or more of the factors; 68609

(iii) The inclusion of one or more additional factors that 68610  
will fairly represent the taxpayer's allocated or apportioned base 68611  
in this state. 68612

An alternative method will be effective only with approval by 68613  
the tax commissioner. 68614

Nothing in this section shall be construed to extend any 68615  
statute of limitations set forth in this chapter. 68616

(e) The tax commissioner may adopt rules providing for 68617  
alternative allocation and apportionment methods, and alternative 68618  
calculations of a corporation's base, that apply to corporations 68619  
engaged in telecommunications. 68620

(C)(1) Subject to divisions (C)(2) and (3) of this section, 68621  
the total value, as shown on the books of each corporation that is 68622  
not a qualified holding company, of the net book value of a 68623  
corporation's assets less the net carrying value of its 68624  
liabilities, and excluding from the corporation's assets land 68625  
devoted exclusively to agricultural use as of the first Monday of 68626  
June in the corporation's taxable year as determined by the county 68627  
auditor of the county in which the land is located pursuant to 68628  
section 5713.31 of the Revised Code. For the purposes of 68629  
determining that total value, any reserves shown on the 68630  
corporation's books shall be considered liabilities or contra 68631  
assets, except for any reserves that are deemed appropriations of 68632  
retained earnings under generally accepted accounting principles. 68633

(2)(a) If, on the last day of the taxpayer's taxable year 68634  
preceding the tax year, the taxpayer is a related member to a 68635  
corporation that elects to be a qualifying holding company for the 68636  
tax year beginning after the last day of the taxpayer's taxable 68637  
year, or if, on the last day of the taxpayer's taxable year 68638  
preceding the tax year, a corporation that elects to be a 68639  
qualifying holding company for the tax year beginning after the 68640  
last day of the taxpayer's taxable year is a related member to the 68641  
taxpayer, then the taxpayer's total value shall be adjusted by the 68642  
qualifying amount. Except as otherwise provided under division 68643  
(C)(2)(b) of this section, "qualifying amount" means the amount 68644  
that, when added to the taxpayer's total value, and when 68645  
subtracted from the net carrying value of the taxpayer's 68646  
liabilities computed without regard to division (C)(2) of this 68647  
section, or when subtracted from the taxpayer's total value and 68648  
when added to the net carrying value of the taxpayer's liabilities 68649  
computed without regard to division (C)(2) of this section, 68650  
results in the taxpayer's debt-to-equity ratio equaling the 68651  
debt-to-equity ratio of the qualifying controlled group on the 68652  
last day of the taxable year ending prior to the first day of the 68653  
tax year computed on a consolidated basis in accordance with 68654  
general accepted accounting principles. For the purposes of 68655  
division (C)(2)(a) of this section, the corporation's total value, 68656  
after the adjustment required by that division, shall not exceed 68657  
the net book value of the corporation's assets. 68658

(b)(i) The amount added to the taxpayer's total value and 68659  
subtracted from the net carrying value of the taxpayer's 68660  
liabilities shall not exceed the amount of the net carrying value 68661  
of the taxpayer's liabilities owed to the taxpayer's related 68662  
members. 68663

(ii) A liability owed to the taxpayer's related members 68664  
includes, but is not limited to, any amount that the corporation 68665

owes to a person that is not a related member if the corporation's 68666  
related member or related members in whole or in part guarantee 68667  
any portion or all of that amount, or pledge, hypothecate, 68668  
mortgage, or carry out any similar transactions to secure any 68669  
portion or all of that amount. 68670

(3) The base upon which the tax is levied under division (C) 68671  
of section 5733.06 of the Revised Code shall be computed by 68672  
multiplying the amount determined under divisions (C)(1) and (2) 68673  
of this section by the fraction determined under divisions 68674  
(B)(2)(a) to (c) of this section and, if applicable, divisions 68675  
(B)(2)(d)(ii) to (iv) of this section but without regard to 68676  
section 5733.052 of the Revised Code. 68677

(4) For purposes of division (C) of this section, "related 68678  
member" has the same meaning as in division (A)(6) of section 68679  
5733.042 of the Revised Code without regard to division (B) of 68680  
that section. 68681

**Sec. 5733.051.** Subject to section 5733.0510 of the Revised 68682  
Code, net income of a corporation subject to the tax imposed by 68683  
section 5733.06 of the Revised Code shall be allocated and 68684  
apportioned to this state as follows: 68685

(A) Net rents and royalties from real property located in 68686  
this state are allocable to this state. 68687

(B) Net rents and royalties from tangible personal property, 68688  
to the extent such property is utilized in this state, are 68689  
allocable to this state if the taxpayer is otherwise subject to 68690  
the tax imposed by section 5733.06 of the Revised Code. 68691

(C) Capital gains and losses from the sale or other 68692  
disposition of real property located in this state are allocable 68693  
to this state. 68694

(D) Capital gains and losses from the sale or other 68695

disposition of tangible personal property are allocable to this 68696  
state if the property had a situs in this state at the time of 68697  
sale and the taxpayer is otherwise subject to the tax imposed by 68698  
section 5733.06 of the Revised Code. 68699

(E) Capital gains and losses from the sale or other 68700  
disposition of intangible property which may produce income 68701  
enumerated in division (F) of this section are allocable on the 68702  
same basis as set forth in that division. Capital gains and losses 68703  
from the sale or other disposition of all other intangible 68704  
property are apportionable under division (I) of this section. 68705

(F) Dividends or distributions which are not otherwise 68706  
deducted or excluded from net income, other than dividends or 68707  
distributions from a domestic international sales corporation, are 68708  
allocable to this state in accordance with the ratio of the book 68709  
value of the physical assets of the payor of the dividends or 68710  
distributions located in this state divided by the book value of 68711  
the total physical assets of the payor located everywhere. 68712  
Dividends or distributions received from a domestic international 68713  
sales corporation, or from a payor the location of whose physical 68714  
assets is unavailable to the taxpayer, are apportionable under 68715  
division (I) of this section. 68716

(G) Patent and copyright royalties and technical assistance 68717  
fees, not representing the principal source of gross receipts of 68718  
the taxpayer, are allocable to this state to the extent that the 68719  
activity of the payor thereof giving rise to the payment takes 68720  
place in this state. If the location of the payor's activity is 68721  
unavailable to the taxpayer, such royalties and fees are 68722  
apportionable under division (I) of this section. 68723

(H) The following amounts ~~described in division (B)(5) of~~ 68724  
~~section 5747.20 of the Revised Code~~ are allocable to this state: 68725

(1)(a) All lottery prize awards paid by the state lottery 68726

commission pursuant to Chapter 3770. of the Revised Code. 68727

(b) All earnings, profit, income, and gain from the sale, exchange, or other disposition of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code. 68728  
68729  
68730  
68731

(c) All earnings, profit, income, and gain from the direct or indirect ownership of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code. 68732  
68733  
68734  
68735

(d) All earnings, profit, income, and gain from the direct or indirect interest in any right in or to any lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code. 68736  
68737  
68738  
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(2) Lottery prize awards and related earnings, profit, income, or gain with regard to lotteries sponsored by persons or agencies outside this state are allocable outside this state. 68740  
68741  
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(I) Any other net income, from sources other than those enumerated in divisions (A) to (H) of this section, is apportionable to this state on the basis of the mechanism provided in division (B)(2) of section 5733.05 of the Revised Code. 68743  
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**Sec. 5733.056.** (A) As used in this section: 68747

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began. 68748  
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68750  
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(2) "Borrower or credit card holder located in this state" means: 68753  
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(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial 68755  
68756

domicile in this state; or 68757

(b) A borrower that is not engaged in a trade or business, or 68758  
a credit card holder, whose billing address is in this state. 68759

(3) "Branch" means a "domestic branch" as defined in section 68760  
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 68761  
1813(o), as amended. 68762

(4) "Compensation" means wages, salaries, commissions, and 68763  
any other form of remuneration paid to employees for personal 68764  
services that are included in such employee's gross income under 68765  
the Internal Revenue Code. In the case of employees not subject to 68766  
the Internal Revenue Code, such as those employed in foreign 68767  
countries, the determination of whether such payments would 68768  
constitute gross income to such employees under the Internal 68769  
Revenue Code shall be made as though such employees were subject 68770  
to the Internal Revenue Code. 68771

(5) "Credit card" means a credit, travel, or entertainment 68772  
card. 68773

(6) "Credit card issuer's reimbursement fee" means the fee a 68774  
taxpayer receives from a merchant's bank because one of the 68775  
persons to whom the taxpayer has issued a credit card has charged 68776  
merchandise or services to the credit card. 68777

(7) "Deposits" has the meaning given in section 3 of the 68778  
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 68779  
as amended. 68780

(8) "Employee" means, with respect to a particular taxpayer, 68781  
any individual who under the usual common law rules applicable in 68782  
determining the employer-employee relationship, has the status of 68783  
an employee of that taxpayer. 68784

(9) "Gross rents" means the actual sum of money or other 68785  
consideration payable for the use or possession of property. 68786

"Gross rents" includes:	68787
(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;	68788 68789 68790 68791
(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and	68792 68793 68794 68795
(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.	68796 68797 68798 68799 68800 68801 68802 68803 68804 68805
(d) The following are not included in the term "gross rents":	68806
(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;	68807 68808
(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;	68809 68810
(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and	68811 68812 68813
(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.	68814 68815
(10) "Loan" means any extension of credit resulting from	68816

direct negotiations between the taxpayer and its customer, or the 68817  
purchase, in whole or in part, of such extension of credit from 68818  
another. Loans include debt obligations of subsidiaries, 68819  
participations, syndications, and leases treated as loans for 68820  
federal income tax purposes. "Loan" does not include: properties 68821  
treated as loans under section 595 of the Internal Revenue Code; 68822  
futures or forward contracts; options; notional principal 68823  
contracts such as swaps; credit card receivables, including 68824  
purchased credit card relationships; non-interest bearing balances 68825  
due from depositor institutions; cash items in the process of 68826  
collection; federal funds sold; securities purchased under 68827  
agreements to resell; assets held in a trading account; 68828  
securities; interests in a real estate mortgage investment conduit 68829  
or other mortgage-backed or asset-backed security; and other 68830  
similar items. 68831

(11) "Loan secured by real property" means that fifty per 68832  
cent or more of the aggregate value of the collateral used to 68833  
secure a loan or other obligation, when valued at fair market 68834  
value as of the time the original loan or obligation was incurred, 68835  
was real property. 68836

(12) "Merchant discount" means the fee, or negotiated 68837  
discount, charged to a merchant by the taxpayer for the privilege 68838  
of participating in a program whereby a credit card is accepted in 68839  
payment for merchandise or services sold to the card holder. 68840

(13) "Participation" means an extension of credit in which an 68841  
undivided ownership interest is held on a pro rata basis in a 68842  
single loan or pool of loans and related collateral. In a loan 68843  
participation, the credit originator initially makes the loan and 68844  
then subsequently resells all or a portion of it to other lenders. 68845  
The participation may or may not be known to the borrower. 68846

(14) "Principal base of operations" with respect to 68847  
transportation property means the place of more or less permanent 68848

nature from which the property is regularly directed or 68849  
controlled. With respect to an employee, the "principal base of 68850  
operations" means the place of more or less permanent nature from 68851  
which the employee regularly (a) starts work and to which the 68852  
employee customarily returns in order to receive instructions from 68853  
the employer or (b) communicates with the employee's customers or 68854  
other persons or (c) performs any other functions necessary to the 68855  
exercise of the trade or profession at some other point or points. 68856

(15) "Qualified institution" means a financial institution 68857  
that on or after June 1, 1997: 68858

(a)(i) Has consummated one or more approved transactions with 68859  
insured banks with different home states that would qualify under 68860  
section 102 of the "Riegle-Neal Interstate Banking and Branching 68861  
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 68862

(ii) Is a federal savings association or federal savings bank 68863  
that has consummated one or more interstate acquisitions that 68864  
result in a financial institution that has branches in more than 68865  
one state; or 68866

(iii) Has consummated one or more approved interstate 68867  
acquisitions under authority of Title XI of the Revised Code that 68868  
result in a financial institution that has branches in more than 68869  
one state; and 68870

(b) Has at least nine per cent of its deposits in this state 68871  
as of the last day of June prior to the beginning of the tax year. 68872

(16) "Real property owned" and "tangible personal property 68873  
owned" mean real and tangible personal property, respectively, on 68874  
which the taxpayer may claim depreciation for federal income tax 68875  
purposes, or to which the taxpayer holds legal title and on which 68876  
no other person may claim depreciation for federal income tax 68877  
purposes, or could claim depreciation if subject to federal income 68878  
tax. Real and tangible personal property do not include coin, 68879

currency, or property acquired in lieu of or pursuant to a 68880  
foreclosure. 68881

(17) "Regular place of business" means an office at which the 68882  
taxpayer carries on its business in a regular and systematic 68883  
manner and which is continuously maintained, occupied, and used by 68884  
employees of the taxpayer. 68885

(18) "State" means a state of the United States, the District 68886  
of Columbia, the commonwealth of Puerto Rico, or any territory or 68887  
possession of the United States. 68888

(19) "Syndication" means an extension of credit in which two 68889  
or more persons fund and each person is at risk only up to a 68890  
specified percentage of the total extension of credit or up to a 68891  
specified dollar amount. 68892

(20) "Transportation property" means vehicles and vessels 68893  
capable of moving under their own power, such as aircraft, trains, 68894  
water vessels and motor vehicles, as well as any equipment or 68895  
containers attached to such property, such as rolling stock, 68896  
barges, trailers, or the like. 68897

(B) The annual financial institution report determines the 68898  
value of the issued and outstanding shares of stock of the 68899  
taxpayer, and is the base or measure of the franchise tax 68900  
liability. Such determination shall be made as of the date shown 68901  
by the report to have been the beginning of the financial 68902  
institution's annual accounting period that includes the first day 68903  
of January of the tax year. For purposes of this section, division 68904  
(A) of section 5733.05, and division (D) of section 5733.06 of the 68905  
Revised Code, the value of the issued and outstanding shares of 68906  
stock of the financial institution shall include the total value, 68907  
as shown by the books of the financial institution, of its 68908  
capital, surplus, whether earned or unearned, undivided profits, 68909  
and reserves, but exclusive of: 68910

(1) Reserves for accounts receivable, depreciation,	68911
depletion, and any other valuation reserves with respect to	68912
specific assets;	68913
(2) Taxes due and payable during the year for which such	68914
report was made;	68915
(3) Voting stock and participation certificates in	68916
corporations chartered pursuant to the "Farm Credit Act of 1971,"	68917
85 Stat. 597, 12 U.S.C. 2091, as amended;	68918
(4) Good will, appreciation, and abandoned property as set up	68919
in the annual report of the financial institution, provided a	68920
certified balance sheet of the company is made available upon the	68921
request of the tax commissioner. Such balance sheet shall not be a	68922
part of the public records, but shall be a confidential report for	68923
use of the tax commissioner only.	68924
(5) A portion of the value of the issued and outstanding	68925
shares of stock of such financial institution equal to the amount	68926
obtained by multiplying such value by the quotient obtained by:	68927
(a) Dividing (1) the amount of the financial institution's	68928
assets, as shown on its books, represented by investments in the	68929
capital stock and indebtedness of public utilities, <u>except</u>	68930
<u>electric companies and combined companies, and, for tax years 2005</u>	68931
<u>and thereafter, telephone companies,</u> of which at least eighty per	68932
cent of the utility's issued and outstanding common stock is owned	68933
by the financial institution by (2) the total assets of such	68934
financial institution as shown on its books;	68935
(b) Dividing (1) the amount of the financial institution's	68936
assets, as shown on its books, represented by investments in the	68937
capital stock and indebtedness of insurance companies of which at	68938
least eighty per cent of the insurance company's issued and	68939
outstanding common stock is owned by the financial institution by	68940
(2) the total assets of such financial institution as shown on its	68941

books; 68942

(c) Dividing (1) the amount of the financial institution's 68943  
assets, as shown on its books, represented by investments in the 68944  
capital stock and indebtedness of other financial institutions of 68945  
which at least twenty-five per cent of the other financial 68946  
institution's issued and outstanding common stock is owned by the 68947  
financial institution by (2) the total assets of the financial 68948  
institution as shown on its books. Division (B)(5)(c) of this 68949  
section applies only with respect to such other financial 68950  
institutions that for the tax year immediately following the 68951  
taxpayer's taxable year will pay the tax imposed by division (D) 68952  
of section 5733.06 of the Revised Code. 68953

(6) Land that has been determined pursuant to section 5713.31 68954  
of the Revised Code by the county auditor of the county in which 68955  
the land is located to be devoted exclusively to agricultural use 68956  
as of the first Monday of June in the financial institution's 68957  
taxable year. 68958

(7) Property within this state used exclusively during the 68959  
taxable year for qualified research as defined in section 5733.05 68960  
of the Revised Code. 68961

(C) The base upon which the tax levied under division (D) of 68962  
section 5733.06 of the Revised Code shall be computed by 68963  
multiplying the value of a financial institution's issued and 68964  
outstanding shares of stock as determined in division (B) of this 68965  
section by a fraction. The numerator of the fraction is the sum of 68966  
the following: the property factor multiplied by fifteen, the 68967  
payroll factor multiplied by fifteen, and the sales factor 68968  
multiplied by seventy. The denominator of the fraction is one 68969  
hundred, provided that the denominator shall be reduced by fifteen 68970  
if the property factor has a denominator of zero, by fifteen if 68971  
the payroll factor has a denominator of zero, and by seventy if 68972  
the sales factor has a denominator of zero. 68973

(D) A financial institution shall calculate the property factor as follows:

(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 69005  
the first day of the taxable year and the value on the last day of 69006  
the taxable year and dividing the sum by two. If averaging on this 69007  
basis does not properly reflect average value, the tax 69008  
commissioner may require averaging on a more frequent basis. The 69009  
taxpayer may elect to average on a more frequent basis. When 69010  
averaging on a more frequent basis is required by the tax 69011  
commissioner or is elected by the taxpayer, the same method of 69012  
valuation must be used consistently by the taxpayer with respect 69013  
to property within and without this state and on all subsequent 69014  
returns unless the taxpayer receives prior permission from the tax 69015  
commissioner or the tax commissioner requires a different method 69016  
of determining value. 69017

(4)(a) The average value of real property and tangible 69018  
personal property that the taxpayer has rented from another and is 69019  
not treated as property owned by the taxpayer for federal income 69020  
tax purposes, shall be determined annually by multiplying the 69021  
gross rents payable during the taxable year by eight. 69022

(b) Where the use of the general method described in division 69023  
(D)(4)(a) of this section results in inaccurate valuations of 69024  
rented property, any other method which properly reflects the 69025  
value may be adopted by the tax commissioner or by the taxpayer 69026  
when approved in writing by the tax commissioner. Once approved, 69027  
such other method of valuation must be used on all subsequent 69028  
returns unless the taxpayer receives prior approval from the tax 69029  
commissioner or the tax commissioner requires a different method 69030  
of valuation. 69031

(5)(a) Except as described in division (D)(5)(b) of this 69032  
section, real property and tangible personal property owned by or 69033  
rented to the taxpayer is considered to be located within this 69034  
state if it is physically located, situated, or used within this 69035  
state. 69036

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the load to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided 69068  
in division (D)(6)(a)(ii) of this section may be rebutted upon a 69069  
showing by the tax commissioner, supported by a preponderance of 69070  
the evidence, that the preponderance of substantive contacts 69071  
regarding such loan did not occur at the regular place of business 69072  
to which it was assigned on the taxpayer's records. When such 69073  
presumption has been rebutted, the loan shall then be located 69074  
within this state if (1) the taxpayer had a regular place of 69075  
business within this state at the time the loan was made; and (2) 69076  
the taxpayer fails to show, by a preponderance of the evidence, 69077  
that the preponderance of substantive contacts regarding such loan 69078  
did not occur within this state. 69079

(b) In the case of a loan which is assigned by the taxpayer 69080  
to a place without this state which is not a regular place of 69081  
business, it shall be presumed, subject to rebuttal by the 69082  
taxpayer on a showing supported by the preponderance of evidence, 69083  
that the preponderance of substantive contacts regarding the loan 69084  
occurred within this state if, at the time the loan was made the 69085  
taxpayer's commercial domicile was within this state. 69086

(c) To determine the state in which the preponderance of 69087  
substantive contacts relating to a loan have occurred, the facts 69088  
and circumstances regarding the loan at issue shall be reviewed on 69089  
a case-by-case basis and consideration shall be given to such 69090  
activities as the solicitation, investigation, negotiation, 69091  
approval, and administration of the loan. The terms 69092  
"solicitation," "investigation," "negotiation," "approval," and 69093  
"administration" are defined as follows: 69094

(i) "Solicitation" is either active or passive. Active 69095  
solicitation occurs when an employee of the taxpayer initiates the 69096  
contact with the customer. Such activity is located at the regular 69097  
place of business which the taxpayer's employee is regularly 69098  
connected with or working out of, regardless of where the services 69099

of such employee were actually performed. Passive solicitation 69100  
occurs when the customer initiates the contact with the taxpayer. 69101  
If the customer's initial contact was not at a regular place of 69102  
business of the taxpayer, the regular place of business, if any, 69103  
where the passive solicitation occurred is determined by the facts 69104  
in each case. 69105

(ii) "Investigation" is the procedure whereby employees of 69106  
the taxpayer determine the creditworthiness of the customer as 69107  
well as the degree of risk involved in making a particular 69108  
agreement. Such activity is located at the regular place of 69109  
business which the taxpayer's employees are regularly connected 69110  
with or working out of, regardless of where the services of such 69111  
employees were actually performed. 69112

(iii) Negotiation is the procedure whereby employees of the 69113  
taxpayer and its customer determine the terms of the agreement, 69114  
such as the amount, duration, interest rate, frequency of 69115  
repayment, currency denomination, and security required. Such 69116  
activity is located at the regular place of business to which the 69117  
taxpayer's employees are regularly connected or working from, 69118  
regardless of where the services of such employees were actually 69119  
performed. 69120

(iv) "Approval" is the procedure whereby employees or the 69121  
board of directors of the taxpayer make the final determination 69122  
whether to enter into the agreement. Such activity is located at 69123  
the regular place of business to which the taxpayer's employees 69124  
are regularly connected or working from, regardless of where the 69125  
services of such employees were actually performed. If the board 69126  
of directors makes the final determination, such activity is 69127  
located at the commercial domicile of the taxpayer. 69128

(v) "Administration" is the process of managing the account. 69129  
This process includes bookkeeping, collecting the payments, 69130  
corresponding with the customer, reporting to management regarding 69131

the status of the agreement, and proceeding against the borrower 69132  
or the security interest if the borrower is in default. Such 69133  
activity is located at the regular place of business that oversees 69134  
this activity. 69135

(d) A loan or advance to a subsidiary corporation at least 69136  
fifty-one per cent of whose common stock is owned by the financial 69137  
institution shall be allocated in and out of the state by the 69138  
application of a ratio whose numerator is the sum of the net book 69139  
value of the subsidiary's real property owned in this state and 69140  
the subsidiary's tangible personal property owned in this state 69141  
and whose denominator is the sum of the subsidiary's real property 69142  
owned wherever located and the subsidiary's tangible personal 69143  
property owned wherever located. For purposes of calculating this 69144  
ratio, the taxpayer shall determine net book value in accordance 69145  
with generally accepted accounting principles. If the subsidiary 69146  
corporation owns at least fifty-one per cent of the common stock 69147  
of another corporation, the ratio shall be calculated by including 69148  
the other corporation's real property and tangible personal 69149  
property. The calculation of the ratio applies with respect to all 69150  
lower-tiered subsidiaries, provided that the immediate parent 69151  
corporation of the subsidiary owns at least fifty-one per cent of 69152  
the common stock of that subsidiary. 69153

(7) For purposes of determining the location of credit card 69154  
receivables, credit card receivables shall be treated as loans and 69155  
shall be subject to division (D)(6) of this section. 69156

(8) A loan that has been properly assigned to a state shall, 69157  
absent any change of material fact, remain assigned to that state 69158  
for the length of the original term of the loan. Thereafter, the 69159  
loan may be properly assigned to another state if the loan has a 69160  
preponderance of substantive contact to a regular place of 69161  
business there. 69162

(E) A financial institution shall calculate the payroll 69163

factor as follows: 69164

(1) The payroll factor is a fraction, the numerator of which 69165  
is the total amount paid in this state during the taxable year by 69166  
the taxpayer for compensation, and the denominator of which is the 69167  
total compensation paid both within and without this state during 69168  
the taxable year. 69169

(2) Compensation is paid in this state if any one of the 69170  
following tests, applied consecutively, is met: 69171

(a) The employee's services are performed entirely within 69172  
this state. 69173

(b) The employee's services are performed both within and 69174  
without this state, but the service performed without this state 69175  
is incidental to the employee's service within this state. The 69176  
term "incidental" means any service which is temporary or 69177  
transitory in nature, or which is rendered in connection with an 69178  
isolated transaction. 69179

(c) The employee's services are performed both within and 69180  
without this state, and: 69181

(i) The employee's principal base of operations is within 69182  
this state; or 69183

(ii) There is no principal base of operations in any state in 69184  
which some part of the services are performed, but the place from 69185  
which the services are directed or controlled is in this state; or 69186

(iii) The principal base of operations and the place from 69187  
which the services are directed or controlled are not in any state 69188  
in which some part of the service is performed but the employee's 69189  
residence is in this state. 69190

(F) A financial institution shall calculate the sales factor 69191  
as follows: 69192

(1) The sales factor is a fraction, the numerator of which is 69193

the receipts of the taxpayer in this state during the taxable year 69194  
and the denominator of which is the receipts of the taxpayer 69195  
within and without this state during the taxable year. The method 69196  
of calculating receipts for purposes of the denominator is the 69197  
same as the method used in determining receipts for purposes of 69198  
the numerator. 69199

(2) The numerator of the sales factor includes receipts from 69200  
the lease or rental of real property owned by the taxpayer if the 69201  
property is located within this state, or receipts from the 69202  
sublease of real property if the property is located within this 69203  
state. 69204

(3)(a) Except as described in division (F)(3)(b) of this 69205  
section the numerator of the sales factor includes receipts from 69206  
the lease or rental of tangible personal property owned by the 69207  
taxpayer if the property is located within this state when it is 69208  
first placed in service by the lessee. 69209

(b) Receipts from the lease or rental of transportation 69210  
property owned by the taxpayer are included in the numerator of 69211  
the sales factor to the extent that the property is used in this 69212  
state. The extent an aircraft will be deemed to be used in this 69213  
state and the amount of receipts that is to be included in the 69214  
numerator of this state's sales factor is determined by 69215  
multiplying all the receipts from the lease or rental of the 69216  
aircraft by a fraction, the numerator of which is the number of 69217  
landings of the aircraft in this state and the denominator of 69218  
which is the total number of landings of the aircraft. If the 69219  
extent of the use of any transportation property within this state 69220  
cannot be determined, then the property will be deemed to be used 69221  
wholly in the state in which the property has its principal base 69222  
of operations. A motor vehicle will be deemed to be used wholly in 69223  
the state in which it is registered. 69224

(4)(a) The numerator of the sales factor includes interest 69225

and fees or penalties in the nature of interest from loans secured 69226  
by real property if the property is located within this state. If 69227  
the property is located both within this state and one or more 69228  
other states, the receipts described in this paragraph are 69229  
included in the numerator of the sales factor if more than fifty 69230  
per cent of the fair market value of the real property is located 69231  
within this state. If more than fifty per cent of the fair market 69232  
value of the real property is not located within any one state, 69233  
then the receipts described in this paragraph shall be included in 69234  
the numerator of the sales factor if the borrower is located in 69235  
this state. 69236

(b) The determination of whether the real property securing a 69237  
loan is located within this state shall be made as of the time the 69238  
original agreement was made and any and all subsequent 69239  
substitutions of collateral shall be disregarded. 69240

(5) The numerator of the sales factor includes interest and 69241  
fees or penalties in the nature of interest from loans not secured 69242  
by real property if the borrower is located in this state. 69243

(6) The numerator of the sales factor includes net gains from 69244  
the sale of loans. Net gains from the sale of loans includes 69245  
income recorded under the coupon stripping rules of section 1286 69246  
of the Internal Revenue Code. 69247

(a) The amount of net gains, but not less than zero, from the 69248  
sale of loans secured by real property included in the numerator 69249  
is determined by multiplying such net gains by a fraction the 69250  
numerator of which is the amount included in the numerator of the 69251  
sales factor pursuant to division (F)(4) of this section and the 69252  
denominator of which is the total amount of interest and fees or 69253  
penalties in the nature of interest from loans secured by real 69254  
property. 69255

(b) The amount of net gains, but not less than zero, from the 69256

sale of loans not secured by real property included in the 69257  
numerator is determined by multiplying such net gains by a 69258  
fraction the numerator of which is the amount included in the 69259  
numerator of the sales factor pursuant to division (F)(5) of this 69260  
section and the denominator of which is the total amount of 69261  
interest and fees or penalties in the nature of interest from 69262  
loans not secured by real property. 69263

(7) The numerator of the sales factor includes interest and 69264  
fees or penalties in the nature of interest from credit card 69265  
receivables and receipts from fees charged to card holders, such 69266  
as annual fees, if the billing address of the card holder is in 69267  
this state. 69268

(8) The numerator of the sales factor includes net gains, but 69269  
not less than zero, from the sale of credit card receivables 69270  
multiplied by a fraction, the numerator of which is the amount 69271  
included in the numerator of the sales factor pursuant to division 69272  
(F)(7) of this section and the denominator of which is the 69273  
taxpayer's total amount of interest and fees or penalties in the 69274  
nature of interest from credit card receivables and fees charged 69275  
to card holders. 69276

(9) The numerator of the sales factor includes all credit 69277  
card issuer's reimbursement fees multiplied by a fraction, the 69278  
numerator of which is the amount included in the numerator of the 69279  
sales factor pursuant to division (F)(7) of this section and the 69280  
denominator of which is the taxpayer's total amount of interest 69281  
and fees or penalties in the nature of interest from credit card 69282  
receivables and fees charged to card holders. 69283

(10) The numerator of the sales factor includes receipts from 69284  
merchant discount if the commercial domicile of the merchant is in 69285  
this state. Such receipts shall be computed net of any card holder 69286  
charge backs, but shall not be reduced by any interchange 69287  
transaction fees or by any issuer's reimbursement fees paid to 69288

another for charges made by its card holders. 69289

(11)(a)(i) The numerator of the sales factor includes loan 69290  
servicing fees derived from loans secured by real property 69291  
multiplied by a fraction the numerator of which is the amount 69292  
included in the numerator of the sales factor pursuant to division 69293  
(F)(4) of this section and the denominator of which is the total 69294  
amount of interest and fees or penalties in the nature of interest 69295  
from loans secured by real property. 69296

(ii) The numerator of the sales factor includes loan 69297  
servicing fees derived from loans not secured by real property 69298  
multiplied by a fraction the numerator of which is the amount 69299  
included in the numerator of the sales factor pursuant to division 69300  
(F)(5) of this section and the denominator of which is the total 69301  
amount of interest and fees or penalties in the nature of interest 69302  
from loans not secured by real property. 69303

(b) In circumstances in which the taxpayer receives loan 69304  
servicing fees for servicing either the secured or the unsecured 69305  
loans of another, the numerator of the sales factor shall include 69306  
such fees if the borrower is located in this state. 69307

(12) The numerator of the sales factor includes receipts from 69308  
services not otherwise apportioned under this section if the 69309  
service is performed in this state. If the service is performed 69310  
both within and without this state, the numerator of the sales 69311  
factor includes receipts from services not otherwise apportioned 69312  
under this section, if a greater proportion of the income 69313  
producing activity is performed in this state based on cost of 69314  
performance. 69315

(13)(a) Interest, dividends, net gains, but not less than 69316  
zero, and other income from investment assets and activities and 69317  
from trading assets and activities shall be included in the sales 69318  
factor. Investment assets and activities and trading assets and 69319

activities include but are not limited to: investment securities; 69320  
trading account assets; federal funds; securities purchased and 69321  
sold under agreements to resell or repurchase; options; futures 69322  
contracts; forward contracts; notional principal contracts such as 69323  
swaps; equities; and foreign currency transactions. With respect 69324  
to the investment and trading assets and activities described in 69325  
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 69326  
shall include the amounts described in such divisions. 69327

(i) The sales factor shall include the amount by which 69328  
interest from federal funds sold and securities purchased under 69329  
resale agreements exceeds interest expense on federal funds 69330  
purchased and securities sold under repurchase agreements. 69331

(ii) The sales factor shall include the amount by which 69332  
interest, dividends, gains, and other income from trading assets 69333  
and activities, including, but not limited to, assets and 69334  
activities in the matched book, in the arbitrage book, and foreign 69335  
currency transactions, exceed amounts paid in lieu of interest, 69336  
amounts paid in lieu of dividends, and losses from such assets and 69337  
activities. 69338

(b) The numerator of the sales factor includes interest, 69339  
dividends, net gains, but not less than zero, and other income 69340  
from investment assets and activities and from trading assets and 69341  
activities described in division (F)(13)(a) of this section that 69342  
are attributable to this state. 69343

(i) The amount of interest, other than interest described in 69344  
division (F)(13)(b)(iv) of this section, dividends, other than 69345  
dividends described in that division, net gains, but not less than 69346  
zero, and other income from investment assets and activities in 69347  
the investment account to be attributed to this state and included 69348  
in the numerator is determined by multiplying all such income from 69349  
such assets and activities by a fraction, the numerator of which 69350  
is the average value of such assets which are properly assigned to 69351

a regular place of business of the taxpayer within this state and 69352  
the denominator of which is the average value of all such assets. 69353

(ii) The amount of interest from federal funds sold and 69354  
purchased and from securities purchased under resale agreements 69355  
and securities sold under repurchase agreements attributable to 69356  
this state and included in the numerator is determined by 69357  
multiplying the amount described in division (F)(13)(a)(i) of this 69358  
section from such funds and such securities by a fraction, the 69359  
numerator of which is the average value of federal funds sold and 69360  
securities purchased under agreements to resell which are properly 69361  
assigned to a regular place of business of the taxpayer within 69362  
this state and the denominator of which is the average value of 69363  
all such funds and such securities. 69364

(iii) The amount of interest, dividends, gains, and other 69365  
income from trading assets and activities, including but not 69366  
limited to assets and activities in the matched book, in the 69367  
arbitrage book, and foreign currency transaction, but excluding 69368  
amounts described in division (F)(13)(b)(i) or (ii) of this 69369  
section, attributable to this state and included in the numerator 69370  
is determined by multiplying the amount described in division 69371  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69372  
which is the average value of such trading assets which are 69373  
properly assigned to a regular place of business of the taxpayer 69374  
within this state and the denominator of which is the average 69375  
value of all such assets. 69376

(iv) The amount of dividends received on the capital stock 69377  
of, and the amount of interest received from loans and advances 69378  
to, subsidiary corporations at least fifty-one per cent of whose 69379  
common stock is owned by the reporting financial institution shall 69380  
be allocated in and out of this state by the application of a 69381  
ratio whose numerator is the sum of the net book value of the 69382  
payor's real property owned in this state and the payor's tangible 69383

personal property owned in this state and whose denominator is the 69384  
sum of the net book value of the payor's real property owned 69385  
wherever located and the payor's tangible personal property owned 69386  
wherever located. For purposes of calculating this ratio, the 69387  
taxpayer shall determine net book value in accordance with 69388  
generally accepted accounting principles. 69389

(v) For purposes of this division, average value shall be 69390  
determined using the rules for determining the average value of 69391  
tangible personal property set forth in division (D)(2) and (3) of 69392  
this section. 69393

(c) In lieu of using the method set forth in division 69394  
(F)(13)(b) of this section, the taxpayer may elect, or the tax 69395  
commissioner may require in order to fairly represent the business 69396  
activity of the taxpayer in this state, the use of the method set 69397  
forth in division (F)(13)(c) of this section. 69398

(i) The amount of interest, other than interest described in 69399  
division (F)(13)(b)(iv) of this section, dividends, other than 69400  
dividends described in that division, net gains, but not less than 69401  
zero, and other income from investment assets and activities in 69402  
the investment account to be attributed to this state and included 69403  
in the numerator is determined by multiplying all such income from 69404  
such assets and activities by a fraction, the numerator of which 69405  
is the gross income from such assets and activities which are 69406  
properly assigned to a regular place of business of the taxpayer 69407  
within this state, and the denominator of which is the gross 69408  
income from all such assets and activities. 69409

(ii) The amount of interest from federal funds sold and 69410  
purchased and from securities purchased under resale agreements 69411  
and securities sold under repurchase agreements attributable to 69412  
this state and included in the numerator is determined by 69413  
multiplying the amount described in division (F)(13)(a)(i) of this 69414  
section from such funds and such securities by a fraction, the 69415

numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns

unless the taxpayer receives prior permission from the tax 69448  
commissioner to use or the tax commissioner requires a different 69449  
method. 69450

(e) The taxpayer shall have the burden of proving that an 69451  
investment asset or activity or trading asset or activity was 69452  
properly assigned to a regular place of business outside of this 69453  
state by demonstrating that the day-to-day decisions regarding the 69454  
asset or activity occurred at a regular place of business outside 69455  
this state. Where the day-to-day decisions regarding an investment 69456  
asset or activity or trading asset or activity occur at more than 69457  
one regular place of business and one such regular place of 69458  
business is in this state and one such regular place of business 69459  
is outside this state such asset or activity shall be considered 69460  
to be located at the regular place of business of the taxpayer 69461  
where the investment or trading policies or guidelines with 69462  
respect to the asset or activity are established. Unless the 69463  
taxpayer demonstrates to the contrary, such policies and 69464  
guidelines shall be presumed to be established at the commercial 69465  
domicile of the taxpayer. 69466

(14) The numerator of the sales factor includes all other 69467  
receipts if either: 69468

(a) The income-producing activity is performed solely in this 69469  
state; or 69470

(b) The income-producing activity is performed both within 69471  
and without this state and a greater proportion of the 69472  
income-producing activity is performed within this state than in 69473  
any other state, based on costs of performance. 69474

(G) A qualified institution may calculate the base upon which 69475  
the fee provided for in division (D) of section 5733.06 of the 69476  
Revised Code is determined for each tax year by multiplying the 69477  
value of its issued and outstanding shares of stock determined 69478

under division (B) of this section by a single deposits fraction 69479  
whose numerator is the deposits assigned to branches in this state 69480  
and whose denominator is the deposits assigned to branches 69481  
everywhere. Deposits shall be assigned to branches in the same 69482  
manner in which the assignment is made for regulatory purposes. If 69483  
the base calculated under this division is less than the base 69484  
calculated under division (C) of this section, then the qualifying 69485  
institution may elect to substitute the base calculated under this 69486  
division for the base calculated under division (C) of this 69487  
section. Such election may be made annually for each tax year on 69488  
the corporate report. The election need not accompany the report; 69489  
rather, the election may accompany a subsequently filed but timely 69490  
application for refund, a subsequently filed but timely amended 69491  
report, or a subsequently filed but timely petition for 69492  
reassessment. The election is not irrevocable and it applies only 69493  
to the specified tax year. Nothing in this division shall be 69494  
construed to extend any statute of limitations set forth in this 69495  
chapter. 69496

(H) If the apportionment provisions of this section do not 69497  
fairly represent the extent of the taxpayer's business activity in 69498  
this state, the taxpayer may petition for or the tax commissioner 69499  
may require, in respect to all or any part of the taxpayer's 69500  
business activity, if reasonable: 69501

(1) Separate accounting; 69502

(2) The exclusion of any one or more of the factors; 69503

(3) The inclusion of one or more additional factors which 69504  
will fairly represent the taxpayer's business activity in this 69505  
state; or 69506

(4) The employment of any other method to effectuate an 69507  
equitable allocation and apportionment of the taxpayer's value. 69508

Sec. 5733.059. (A) As used in this section: 69509

(1) "Customer" means a person who purchases electricity for 69510  
consumption either by that person or by the person's related 69511  
member and the electricity is not for resale directly or 69512  
indirectly to any person other than a related member. 69513

(2) "Related member" has the same meaning as in division 69514  
(A)(6) of section 5733.042 of the Revised Code without regard to 69515  
division (B) of that section. 69516

(B) Except as provided in division (C) of this section, this 69517  
division applies only to sales of electric transmission and 69518  
distribution services. For purposes of sections 5733.05 and 69519  
5747.21 of the Revised Code: 69520

(1) Sales of the transmission of electricity are in this 69521  
state in proportion to the ratio of the wire mileage of the 69522  
taxpayer's transmission lines located in this state divided by the 69523  
wire mileage of the taxpayer's transmission lines located 69524  
everywhere. Transmission wire mileage shall be weighted for the 69525  
voltage capacity of each line. 69526

(2) Sales of the distribution of electricity are in this 69527  
state in proportion to the ratio of the wire mileage of the 69528  
taxpayer's distribution lines located in this state divided by the 69529  
wire mileage of the taxpayer's distribution lines located 69530  
everywhere. Distribution wire mileage shall not be weighted for 69531  
the voltage capacity of each line. 69532

(C) This division applies only to a person that has 69533  
transmission or distribution lines in this state. If a contract 69534  
for the sale of electricity includes the seller's or the seller's 69535  
related member's obligation to transmit or distribute the 69536  
electricity and if the sales contract separately identifies the 69537  
price charged for the transmission or distribution of electricity, 69538

the price charged for the transmission and distribution of 69539  
electricity shall be apportioned to this state in accordance with 69540  
division (B) of this section. Any remaining portion of the sales 69541  
price of the electricity shall be sitused to this state in 69542  
accordance with division (D) of this section. 69543

If the sales contract does not separately identify the price 69544  
charged for the transmission or distribution of electricity, the 69545  
sales price of the electricity shall be sitused to this state in 69546  
accordance with division (D) of this section. 69547

(D) Any person who makes a sale of electricity shall situs 69548  
the following to this state: 69549

(1) A sale of electricity directly or indirectly to a 69550  
customer to the extent the customer consumes the electricity in 69551  
this state; 69552

(2) A sale of electricity directly or indirectly to a related 69553  
member where the related member directly or indirectly sells 69554  
electricity to a customer to the extent the customer consumes the 69555  
electricity in this state; 69556

(3) A sale of electricity if the seller or the seller's 69557  
related member directly or indirectly delivers the electricity to 69558  
a location in this state or directly or indirectly delivers the 69559  
electricity exactly to the border of this state and another state; 69560

(4) A sale of electricity if the seller or the seller's 69561  
related member directly or indirectly directs the delivery of the 69562  
electricity to a location in this state or directly or indirectly 69563  
directs the delivery of the electricity exactly to the border of 69564  
this state and another state. 69565

(E) If the situsing provisions of this section do not fairly 69566  
represent the extent of the taxpayer's or the taxpayer's related 69567  
member's activity in this state, the taxpayer may request, or the 69568  
tax commissioner may require, in respect to all or part of a 69569

taxpayer's or related member's sales, if reasonable, any of the 69570  
following: 69571

(1) Separate accounting; 69572

(2) The exclusion of one or more additional situsing factors 69573  
that will fairly represent the taxpayer's and the related member's 69574  
sales in this state; 69575

(3) The inclusion of one or more additional situsing factors 69576  
that will fairly represent the taxpayer's and the related member's 69577  
sales in this state. 69578

The taxpayer's request shall be in writing and shall be filed 69579  
with the report required by section 5733.02 of the Revised Code, a 69580  
timely filed petition for reassessment, or a timely filed amended 69581  
report. An alternative situsing method shall be effective with the 69582  
approval of the tax commissioner. 69583

Nothing in this section shall be construed to extend any 69584  
statute of limitations set forth in this chapter. 69585

(F) If the situsing provisions of this section do not fairly 69586  
represent activity in this state, the tax commissioner may 69587  
promulgate rules to situs sales using a methodology that fairly 69588  
reflects sales in this state. 69589

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69590  
5703.56 of the Revised Code to the contrary, a person situsing a 69591  
sale outside this state has the burden to establish by a 69592  
preponderance of the evidence that the doctrines enumerated in 69593  
~~those sections~~ that section do not apply. 69594

**Sec. 5733.0511.** (A) As used in this section: 69595

(1) "Qualifying telephone company taxpayer" means either of 69596  
the following: 69597

(a) A telephone company, but only if the telephone company 69598

was subject to the tax imposed by section 5727.30 of the Revised Code for gross receipts received during the period from July 1, 2003, to June 30, 2004, and the telephone company's property subject to taxation under Chapter 5727. of the Revised Code for tax years 2003 through 2006 was assessed using the true value percentages provided for in division (B) of section 5727.111 of the Revised Code.

(b) Any taxpayer not described in division (A)(1)(a) of this section if a telephone company described in division (A)(1)(a) of this section transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization, or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue Code on account of a transfer as part of an entity organization or reorganization, or subsequent entity organization or reorganization.

(2) "Qualifying telephone company asset" means any asset shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles.

(3) "Net income" has the same meaning as in division (I) of section 5733.04 of the Revised Code.

(4) "Book-tax difference" means the difference, if any, between a qualifying telephone company asset's net book value shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles, and such asset's adjusted basis on December 31, 2003. The book-tax difference may be a negative number.

(5) Solely for purposes of division (A)(1)(a) of this section, "tax year" has the same meaning as used in section 5727.01 of the Revised Code. 69630  
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(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. 69633  
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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. 69648  
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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. 69654  
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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 69658  
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division (J) of this section, or division (C) of this section, 69661  
after the reduction, if any, provided by division (J) of this 69662  
section, except that the tax hereby charged each financial 69663  
institution subject to this chapter shall be the amount computed 69664  
under division (D) of this section: 69665

(A) Except as set forth in division (F) of this section, five 69666  
and one-tenth per cent upon the first fifty thousand dollars of 69667  
the value of the taxpayer's issued and outstanding shares of stock 69668  
as determined under division (B) of section 5733.05 of the Revised 69669  
Code; 69670

(B) Except as set forth in division (F) of this section, 69671  
eight and one-half per cent upon the value so determined in excess 69672  
of fifty thousand dollars; or 69673

(C)(1) Except as otherwise provided under division (G) of 69674  
this section, four mills times that portion of the value of the 69675  
issued and outstanding shares of stock as determined under 69676  
division (C) of section 5733.05 of the Revised Code. For the 69677  
purposes of division (C) of this section, division (C)(2) of 69678  
section 5733.065, and division (C) of section 5733.066 of the 69679  
Revised Code, the value of the issued and outstanding shares of 69680  
stock of an eligible corporation for tax year 2003 through tax 69681  
year 2007, or of a qualified holding company, is zero. 69682

(2) As used in division (C) of this section, "eligible 69683  
corporation" means a person treated as a corporation for federal 69684  
income tax purposes that meets all of the following criteria: 69685

(a) The corporation conducts business for an entire taxable 69686  
year as a qualified trade or business as defined by division (C) 69687  
of section 122.15 of the Revised Code. 69688

(b) The corporation uses more than fifty per cent of the 69689  
corporation's assets, based on net book value, that are located in 69690  
Ohio solely to conduct activities that constitute a qualified 69691

trade or business as defined by section 122.15 of the Revised Code. 69692  
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(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. 69694  
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(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. 69698  
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(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: 69710  
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(1) For tax years prior to the 1999 tax year, fifteen mills; 69715

(2) For the 1999 tax year, fourteen mills; 69716

(3) For tax year 2000 and thereafter, thirteen mills. 69717

(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 69718  
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power to exercise its corporate franchise unimpaired by such 69723  
proceedings or act. The minimum payment for ~~all corporations~~ each 69724  
corporation shall be ~~fifty dollars~~ as follows: 69725

(1) One thousand dollars in the case of a corporation having 69726  
gross receipts for the taxable year equal to at least five million 69727  
dollars from activities within or outside this state or in the 69728  
case of a corporation employing at least three hundred employees 69729  
at some time during the taxable year within or outside this state; 69730

(2) Fifty dollars in the case of any other corporation. 69731

The tax charged to corporations under this chapter for the 69732  
privilege of engaging in business in this state, which is an 69733  
excise tax levied on the value of the issued and outstanding 69734  
shares of stock, shall in no manner be construed as prohibiting or 69735  
otherwise limiting the powers of municipal corporations, joint 69736  
economic development zones created under section 715.691 of the 69737  
Revised Code, and joint economic development districts created 69738  
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 69739  
Revised Code in this state to impose an income tax on the income 69740  
of such corporations. 69741

(F) If two or more taxpayers satisfy the ownership or control 69742  
requirements of division (A) of section 5733.052 of the Revised 69743  
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 69744  
amount" for "fifty thousand dollars" in divisions (A) and (B) of 69745  
this section. For purposes of this division, "the taxpayer's 69746  
pro-rata amount" is an amount that, when added to the other such 69747  
taxpayers' pro-rata amounts, does not exceed fifty thousand 69748  
dollars. For the purpose of making that computation, the 69749  
taxpayer's pro-rata amount shall not be less than zero. Nothing in 69750  
this division derogates from or eliminates the requirement to make 69751  
the alternative computation of tax under division (C) of this 69752  
section. 69753

(G) The tax liability of any corporation under division (C) 69754  
of this section shall not exceed one hundred fifty thousand 69755  
dollars. 69756

(H)(1) For the purposes of division (H) of this section, 69757  
"exiting corporation" means a corporation that satisfies all of 69758  
the following conditions: 69759

(a) The corporation had nexus with or in this state under the 69760  
Constitution of the United States during any portion of a calendar 69761  
year; 69762

(b) The corporation was not a corporation described in 69763  
division (A) of section 5733.01 of the Revised Code on the first 69764  
day of January immediately following that calendar year; 69765

(c) The corporation was not a financial institution on the 69766  
first day of January immediately following that calendar year; 69767

(d) If the corporation was a transferor as defined in section 69768  
5733.053 of the Revised Code, the corporation's transferee was not 69769  
required to add to the transferee's net income the income of the 69770  
transferor pursuant to division (B) of that section; 69771

(e) During any portion of that calendar year, or any portion 69772  
of the immediately preceding calendar year, the corporation had 69773  
net income that was not included in a report filed by the 69774  
corporation or its transferee pursuant to section 5733.02, 69775  
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 69776

(f) The corporation would have been subject to the tax 69777  
computed under divisions (A), (B), (C), (F), and (G) of this 69778  
section if the corporation is assumed to be a corporation 69779  
described in division (A) of section 5733.01 of the Revised Code 69780  
on the first day of January immediately following the calendar 69781  
year to which division (H)(1)(a) of this section refers. 69782

(2) For the purposes of division (H) of this section, 69783

"unreported net income" means net income that was not previously 69784  
included in a report filed pursuant to section 5733.02, 5733.021, 69785  
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 69786  
realized or recognized during the calendar year to which division 69787  
(H)(1) of this section refers or the immediately preceding 69788  
calendar year. 69789

(3) Each exiting corporation shall pay a tax computed by 69790  
first allocating and apportioning the unreported net income 69791  
pursuant to division (B) of section 5733.05 and section 5733.051 69792  
and, if applicable, section 5733.052 of the Revised Code. The 69793  
exiting corporation then shall compute the tax due on its 69794  
unreported net income allocated and apportioned to this state by 69795  
applying divisions (A), (B), and (F) of this section to that 69796  
income. 69797

(4) Divisions (C) and (G) of this section, division (D)(2) of 69798  
section 5733.065, and division (C) of section 5733.066 of the 69799  
Revised Code do not apply to an exiting corporation, but exiting 69800  
corporations are subject to every other provision of this chapter. 69801

(5) Notwithstanding division (B) of section 5733.01 or 69802  
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 69803  
contrary, each exiting corporation shall report and pay the tax 69804  
due under division (H) of this section on or before the 69805  
thirty-first day of May immediately following the calendar year to 69806  
which division (H)(1)(a) of this section refers. The exiting 69807  
corporation shall file that report on the form most recently 69808  
prescribed by the tax commissioner for the purposes of complying 69809  
with sections 5733.02 and 5733.03 of the Revised Code. Upon 69810  
request by the corporation, the tax commissioner may extend the 69811  
date for filing the report. 69812

(6) If, on account of the application of section 5733.053 of 69813  
the Revised Code, net income is subject to the tax imposed by 69814  
divisions (A) and (B) of this section, such income shall not be 69815

subject to the tax imposed by division (H)(3) of this section. 69816

(7) The amendments made to division (H) of this section by 69817  
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 69818  
any transfer, as defined in section 5733.053 of the Revised Code, 69819  
for which negotiations began prior to January 1, 2001, and that 69820  
was commenced in and completed during calendar year 2001, unless 69821  
the taxpayer makes an election prior to December 31, 2001, to 69822  
apply those amendments. 69823

(8) The tax commissioner may adopt rules governing division 69824  
(H) of this section. 69825

(I) Any reference in the Revised Code to "the tax imposed by 69826  
section 5733.06 of the Revised Code" or "the tax due under section 69827  
5733.06 of the Revised Code" includes the taxes imposed under 69828  
sections 5733.065 and 5733.066 of the Revised Code. 69829

(J)(1) Division (J) of this section applies solely to a 69830  
combined company. Section 5733.057 of the Revised Code shall apply 69831  
when calculating the adjustments required by division (J) of this 69832  
section. 69833

(2) Subject to division (J)(4) of this section, the total tax 69834  
calculated in divisions (A) and (B) of this section shall be 69835  
reduced by an amount calculated by multiplying such tax by a 69836  
fraction, the numerator of which is the total taxable gross 69837  
receipts attributed to providing public utility activity other 69838  
than as an electric company under section 5727.03 of the Revised 69839  
Code for the year upon which the taxable gross receipts are 69840  
measured immediately preceding the tax year, and the denominator 69841  
of which is the total gross receipts from all sources for the year 69842  
upon which the taxable gross receipts are measured immediately 69843  
preceding the tax year. Nothing herein shall be construed to 69844  
exclude from the denominator any item of income described in 69845  
section 5733.051 of the Revised Code. 69846

(3) Subject to division (J)(4) of this section, the total tax  
calculated in division (C) of this section shall be reduced by an  
amount calculated by multiplying such tax by the fraction  
described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division  
(J)(2) or (J)(3) of this section exceed the amount of the excise  
tax paid in accordance with section 5727.38 of the Revised Code,  
for the year upon which the taxable gross receipts are measured  
immediately preceding the tax year.

**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 69878  
division (A) or (C) of section 5733.09 of the Revised Code or a 69879  
person described in section 501(c) of the Internal Revenue Code or 69880  
division (F) of section 3334.01 of the Revised Code, but that 69881  
would be entitled to claim the nonrefundable credit under this 69882  
section if that person were a taxpayer, may file an application 69883  
for refund pursuant to section 5733.12 of the Revised Code. Upon 69884  
proper application for refund under that section, the tax 69885  
commissioner shall issue a refund in the amount of the credit to 69886  
which that person would have been entitled under division (A)(1) 69887  
of this section if the person had been a taxpayer, and as if the 69888  
credit were a refundable credit. 69889

(C) If an organization described in section 401(a) of the 69890  
Internal Revenue Code or a trust or fund is entitled to a 69891  
proportionate share of the lesser of either the tax due or the tax 69892  
paid by any qualifying entity under section 5733.41 of the Revised 69893  
Code, and if that proportionate share is then or could be 69894  
allocable to an exempt person as defined in division (D) of this 69895  
section, then the organization, trust, or fund may file an 69896  
application for refund with respect to such allocable amounts 69897  
pursuant to section 5733.12 of the Revised Code. Upon proper 69898  
application for refund under that section, the tax commissioner 69899  
shall issue a refund in the amount of the credit to which the 69900  
organization, trust, or fund would have been entitled under 69901  
division (A)(1) of this section had the organization, trust, or 69902  
fund been a taxpayer, and as if the credit were a refundable 69903  
credit. To the extent that such an organization, trust, or fund is 69904  
permitted to apply for a refund under this division, or to the 69905  
extent that such an organization, trust, or fund has applied for 69906  
such a refund, exempt persons are not entitled to the credit 69907  
authorized under this section or section 5747.059 of the Revised 69908  
Code. 69909

(D)(1) For the purposes of division (C) of this section only, 69910  
"exempt person" means any of the following: 69911

(a) A person that is or may be the beneficiary of a trust if 69912  
the trust is subject to Subchapter D of Chapter 1 of Subtitle A of 69913  
the Internal Revenue Code. 69914

(b) A person that is or may be the beneficiary of or the 69915  
recipient of payments from a nuclear decommissioning reserve fund, 69916  
a designated settlement fund, or any other trust or fund 69917  
established to resolve and satisfy claims that may otherwise be 69918  
asserted by the beneficiary or a member of the beneficiary's 69919  
family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the 69920  
Internal Revenue Code apply to the determination of whether such a 69921  
person is an exempt person under division (D) of this section. 69922

(c) A person, other than a person that is treated as a C 69923  
corporation for federal income tax purposes, who is or may be the 69924  
beneficiary of a trust that, under its governing instrument, is 69925  
not required to distribute all of its income currently. Division 69926  
(D)(1)(c) of this section applies only if the trust irrevocably 69927  
agrees that for the taxable year during or for which the trust 69928  
distributes any of its income to any of the beneficiaries, the 69929  
trust is a qualifying trust as defined in section 5733.40 of the 69930  
Revised Code and will pay the estimated tax, and will withhold and 69931  
pay the withheld tax as required under section 5733.41 and 69932  
sections 5747.40 to 5747.453 of the Revised Code. 69933

(2) An exempt person does not include any person that would 69934  
not qualify as an exempt person under the doctrines of "economic 69935  
reality," "sham transaction," "step doctrine," or "substance over 69936  
form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69937  
5703.56 of the Revised Code to the contrary, an organization, 69938  
trust, or fund described in division (C) of this section bears the 69939  
burden of establishing by a preponderance of the evidence that any 69940

transaction giving rise to a claim for a refundable credit under 69941  
this section does not have as a principal purpose a claim for that 69942  
credit. Nothing in this section shall be construed to limit solely 69943  
to this section the application of the doctrines referred to in 69944  
division (D)(2) of this section. 69945

(E) Nothing in this section shall be construed to allow a 69946  
refund more than once with respect to the taxes imposed under 69947  
section 5733.41 or 5747.41 of the Revised Code. 69948

**Sec. 5733.09.** (A) ~~An~~ (1) Except as provided in divisions 69949  
(A)(2) and (3) of this section, an incorporated company, whether 69950  
foreign or domestic, owning and operating a public utility in this 69951  
state, and required by law to file reports with the tax 69952  
commissioner and to pay an excise tax upon its gross receipts, and 69953  
insurance, fraternal, beneficial, bond investment, and other 69954  
corporations required by law to file annual reports with the 69955  
superintendent of insurance and dealers in intangibles, the shares 69956  
of which are, or the capital or ownership in capital employed by 69957  
such dealer is, subject to the taxes imposed by section 5707.03 of 69958  
the Revised Code, shall not be subject to this chapter, except for 69959  
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 69960  
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 69961  
5747.453 of the Revised Code. However, for reports required to be 69962  
filed under section 5725.14 of the Revised Code in 2003 and 69963  
thereafter, nothing in this section shall be construed to exempt 69964  
the property of any dealer in intangibles under section 5725.13 of 69965  
the Revised Code from the tax imposed under section 5707.03 of the 69966  
Revised Code. ~~An~~ 69967

(2) An electric company subject to the filing requirements of 69968  
section 5727.08 of the Revised Code or otherwise having nexus with 69969  
or in this state under the Constitution of the United States, or 69970  
any other corporation having any gross receipts directly 69971

attributable to providing public utility service as an electric 69972  
company or having any property directly attributable to providing 69973  
public utility service as an electric company, is subject to this 69974  
chapter. 69975

(3) A telephone company that no longer pays an excise tax 69976  
under section 5727.30 of the Revised Code on its gross receipts 69977  
billed after June 30, 2004, is first subject to taxation under 69978  
this chapter for tax year 2005. For that tax year, a telephone 69979  
company with a taxable year ending in 2004 shall compute the tax 69980  
imposed under this chapter, and shall compute the net operating 69981  
loss carry forward for tax year 2005, by multiplying the tax owed 69982  
under this chapter, net of all nonrefundable credits, or the loss 69983  
for the taxable year, by fifty per cent. 69984

(B) A corporation that has made an election under subchapter 69985  
S, chapter one, subtitle A, of the Internal Revenue Code for its 69986  
taxable year under such code is exempt from the tax imposed by 69987  
section 5733.06 of the Revised Code that is based on that taxable 69988  
year. 69989

A corporation that makes such an election shall file a notice 69990  
of such election with the tax commissioner between the first day 69991  
of January and the thirty-first day of March of each tax year that 69992  
the election is in effect. 69993

(C) An entity defined to be a "real estate investment trust" 69994  
by section 856 of the Internal Revenue Code, a "regulated 69995  
investment company" by section 851 of the Internal Revenue Code, 69996  
or a "real estate mortgage investment conduit" by section 860D of 69997  
the Internal Revenue Code, is exempt from taxation for a tax year 69998  
as a corporation under this chapter and is exempt from taxation 69999  
for a return year as a dealer in intangibles under Chapter 5725. 70000  
of the Revised Code if it provides the report required by this 70001  
division. By the last day of March of the tax or return year the 70002  
entity shall submit to the tax commissioner the name of the entity 70003

with a list of the names, addresses, and social security or 70004  
federal identification numbers of all investors, shareholders, and 70005  
other similar investors who owned any interest or invested in the 70006  
entity during the preceding calendar year. The commissioner may 70007  
extend the date by which the report must be submitted for 70008  
reasonable cause shown by the entity. The commissioner may 70009  
prescribe the form of the report required for exemption under this 70010  
division. 70011

(D)(1) As used in this division: 70012

(a) "Commercial printer" means a person primarily engaged in 70013  
the business of commercial printing. However, "commercial printer" 70014  
does not include a person primarily engaged in the business of 70015  
providing duplicating services using photocopy machines or other 70016  
xerographic processes. 70017

(b) "Commercial printing" means printing by one or more 70018  
common processes such as letterpress, lithography, gravure, 70019  
screen, or digital imaging, and includes related activities such 70020  
as binding, platemaking, prepress operation, cartographic 70021  
composition, and typesetting. 70022

(c) "Contract for printing" means an oral or written 70023  
agreement for the purchase of printed materials produced by a 70024  
commercial printer. 70025

(d) "Intangible property located at the premises of a 70026  
commercial printer" means intangible property of any kind owned or 70027  
licensed by a customer of the commercial printer and furnished to 70028  
the commercial printer for use in commercial printing. 70029

(e) "Printed material" means any tangible personal property 70030  
produced or processed by a commercial printer pursuant to a 70031  
contract for printing. 70032

(f) "Related member" has the same meaning as in ~~division~~ 70033  
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 70034

division (B) of that section. 70035

(2) Except as provided in divisions (D)(3) and (4) of this 70036  
section, a corporation not otherwise subject to the tax imposed by 70037  
section 5733.06 of the Revised Code for a tax year does not become 70038  
subject to that tax for the tax year solely by reason of any one 70039  
or more of the following occurring in this state during the 70040  
taxable year that ends immediately prior to the tax year: 70041

(a) Ownership by the corporation or a related member of the 70042  
corporation of tangible personal property or intangible property 70043  
located during all or any portion of the taxable year or on the 70044  
first day of the tax year at the premises of a commercial printer 70045  
with which the corporation or the corporation's related member has 70046  
a contract for printing with respect to such property or the 70047  
premises of a commercial printer's related member with which the 70048  
corporation or the corporation's related member has a contract for 70049  
printing with respect to such property; 70050

(b) Sales by the corporation or a related member of the 70051  
corporation of property produced at and shipped or distributed 70052  
from the premises of a commercial printer with which the 70053  
corporation or the corporation's related member has a contract for 70054  
printing with respect to such property or the premises of a 70055  
commercial printer's related member with which the corporation or 70056  
the corporation's related member has a contract for printing with 70057  
respect to such property; 70058

(c) Activities of employees, officers, agents, or contractors 70059  
of the corporation or a related member of the corporation on the 70060  
premises of a commercial printer with which the corporation or the 70061  
corporation's related member has a contract for printing or the 70062  
premises of a commercial printer's related member with which the 70063  
corporation or the corporation's related member has a contract for 70064  
printing, where the activities are directly and solely related to 70065  
quality control, distribution, or printing services, or any 70066

combination thereof, performed by or at the direction of the 70067  
commercial printer or the commercial printer's related member. 70068

(3) The exemption under this division does not apply for a 70069  
taxable year to any corporation having on the first day of January 70070  
of the tax year or at any time during the taxable year ending 70071  
immediately preceding the first day of January of the tax year a 70072  
related member which, on the first day of January of the tax year 70073  
or during any portion of such taxable year of the corporation, has 70074  
nexus in or with this state under the Constitution of the United 70075  
States or holds a certificate of compliance with the laws of this 70076  
state authorizing it to do business in this state. 70077

(4) With respect to allowing the exemption under this 70078  
division, the tax commissioner shall be guided by the doctrines of 70079  
"economic reality," "sham transaction," "step transaction," and 70080  
"substance over form." A corporation shall bear the burden of 70081  
establishing by a preponderance of the evidence that any 70082  
transaction giving rise to an exemption claimed under this 70083  
division did not have as a principal purpose the avoidance of any 70084  
portion of the tax imposed by section 5733.06 of the Revised Code. 70085

Application of the doctrines listed in division (D)(4) of 70086  
this section is not limited to this division. 70087

**Sec. 5733.121.** If a corporation entitled to a refund under 70088  
section 5733.11 or 5733.12 of the Revised Code is indebted to this 70089  
state for any tax, workers' compensation premium due under section 70090  
4123.35 of the Revised Code, unemployment compensation 70091  
contribution due under section 4141.25 of the Revised Code, or 70092  
unemployment compensation payment in lieu of contribution under 70093  
section 4141.241 of the Revised Code or fee administered by the 70094  
~~tax commissioner~~ that is paid to the state or to the clerk of 70095  
courts pursuant to section 4505.06 of the Revised Code, or any 70096  
charge, penalty, or interest arising from such a tax, workers' 70097

compensation premium, unemployment compensation contribution, or 70098  
unemployment compensation payment in lieu of contribution under 70099  
section 4141.241 of the Revised Code or fee, the amount refundable 70100  
may be applied in satisfaction of the debt. If the amount 70101  
refundable is less than the amount of the debt, it may be applied 70102  
in partial satisfaction of the debt. If the amount refundable is 70103  
greater than the amount of the debt, the amount remaining after 70104  
satisfaction of the debt shall be refunded. If the corporation has 70105  
more than one such debt, any debt subject to section 5739.33 or 70106  
division (G) of section 5747.07 of the Revised Code shall be 70107  
satisfied first. This section applies only to debts that have 70108  
become final. 70109

The tax commissioner may, with the consent of the taxpayer, 70110  
provide for the crediting, against tax due for any tax year, of 70111  
the amount of any refund due the taxpayer under this chapter for a 70112  
preceding tax year. 70113

**Sec. 5733.18.** Annually, on the day fixed for the payment of 70114  
any excise or franchise tax required to be paid by law, such tax, 70115  
together with any penalties subsequently accruing thereon, shall 70116  
become a lien on all property in this state of a corporation, 70117  
whether such property is employed by the corporation in the 70118  
prosecution of its business or is in the hands of an assignee, 70119  
trustee, or receiver for the benefit of the creditors and 70120  
stockholders. Such lien shall continue until such taxes, together 70121  
with any penalties subsequently accruing, are paid. 70122

Upon failure of such corporation to pay such tax on the day 70123  
fixed for payment, the tax commissioner may file, for which filing 70124  
no fee shall be charged, in the office of the county recorder in 70125  
each county in this state in which such corporation owns or has a 70126  
beneficial interest in real estate, notice of such lien containing 70127  
a brief description of such real estate. Such lien shall not be 70128

valid as against any mortgagee, purchaser, or judgment creditor 70129  
whose rights have attached prior to the time such notice is so 70130  
filed in the county in which the real estate which is the subject 70131  
of such mortgage, purchase, or judgment lien is located. Such 70132  
notice shall be recorded in a book kept by the recorder, called 70133  
the corporation franchise lien record, and indexed under the name 70134  
of the corporation charged with such tax. When such tax, together 70135  
with any penalties subsequently accruing thereon, has been paid, 70136  
the tax commissioner shall furnish to the corporation an 70137  
acknowledgment of such payment which the corporation may record 70138  
with the recorder of each county in which notice of such lien has 70139  
been filed, for which recording the recorder shall charge and 70140  
receive a base fee of two dollars for services and a housing trust 70141  
fund fee of two dollars pursuant to section 317.36 of the Revised 70142  
Code. 70143

**Sec. 5733.22.** (A)(1) Any corporation whose articles of 70144  
incorporation or license certificate to do or transact business in 70145  
this state has been canceled by the secretary of state pursuant to 70146  
section 5733.20 of the Revised Code for failure to make any report 70147  
or return or to pay any tax or fee, shall be reinstated and again 70148  
entitled to exercise its rights, privileges, and franchises in 70149  
this state, and the secretary of state shall cancel the entry of 70150  
cancellation to exercise its rights, privileges, and franchises 70151  
upon compliance with all of the following: 70152

(a) Payment to the secretary of state of any additional fees 70153  
and penalties required to be paid to the secretary of state; 70154

(b) Filing with the secretary of state a certificate from the 70155  
tax commissioner that it has complied with all the requirements of 70156  
law as to franchise or excise tax reports and paid all franchise 70157  
or excise taxes, fees, or penalties due thereon for every year of 70158  
its delinquency; 70159

(c) Payment to the secretary of state of an additional fee of ten dollars. 70160  
70161

(2) The applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name if all of the following apply: 70162  
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(a) The reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation of its license to do business; 70166  
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(b) It appears that the applicant's articles of incorporation or license certificate has been issued to another entity and is not distinguishable upon the record from the name of the applicant; 70169  
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(c) It appears that the articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name has been issued to another entity and is not distinguishable upon the record from the name of the applicant. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code. 70173  
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Any officer, shareholder, creditor, or receiver of any such corporation may at any time take all steps required by this section to effect such reinstatement. 70185  
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(B) The rights, privileges, and franchises of a corporation whose articles of incorporation have been reinstated in accordance with this section, are subject to section 1701.922 of the Revised 70188  
70189  
70190

Code. 70191

(C) Notwithstanding a violation of section 5733.21 of the 70192  
Revised Code, upon reinstatement of a corporation's articles of 70193  
incorporation in accordance with this section, neither section 70194  
5733.20 nor section 5733.21 of the Revised Code shall be applied 70195  
to invalidate the exercise or attempt to exercise any right, 70196  
privilege, or franchise on behalf of the corporation by an 70197  
officer, agent, or employee of the corporation after cancellation 70198  
and prior to the reinstatement of the articles, if the conditions 70199  
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 70200  
the Revised Code are met. 70201

**Sec. 5733.45.** (A) For purposes of this section, a "qualifying 70202  
dealer in intangibles" is a dealer in intangibles that is a member 70203  
of a qualifying controlled group of which a financial institution 70204  
is also a member on the first day of the financial institution's 70205  
tax year. 70206

(B) For tax years 2002 and thereafter, there is hereby 70207  
allowed to each financial institution a nonrefundable credit 70208  
against the tax imposed by section 5733.06 of the Revised Code. 70209  
The amount of the credit shall be computed in accordance with 70210  
division (C) of this section. The credit shall be claimed in the 70211  
order prescribed by section 5733.98 of the Revised Code. The 70212  
credit shall not exceed the amount of tax otherwise due under 70213  
section 5733.06 of the Revised Code after deducting any other 70214  
credits that precede the credit claimed under this section in that 70215  
order. 70216

(C) Subject to division (D) of this section, the amount of 70217  
the nonrefundable credit is the lesser of the amount described in 70218  
division (C)(1) of this section or the amount described in 70219  
division (C)(2) of this section. 70220

(1) The amount of tax that a qualifying dealer in intangibles 70221

paid under Chapter 5707. of the Revised Code during the calendar 70222  
year immediately preceding the financial institution's tax year. 70223  
Such amount shall be reduced, but not below zero, by any refunds 70224  
of such tax received by the qualifying dealer in intangibles under 70225  
Chapter 5703. of the Revised Code during that calendar year. 70226

(2) The product of the amounts described in division 70227  
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 70228  
division (C)(2)(a) of this section shall be ascertained on the 70229  
last day of the financial institution's taxable year immediately 70230  
preceding the tax year. 70231

(a) The cost of the financial institution's direct investment 70232  
in the capital stock of the qualifying dealer in intangibles. The 70233  
cost does not include any appreciation or goodwill to the extent 70234  
those amounts are allowed as an exempted asset on the financial 70235  
institution's annual report. 70236

(b) The ratio described in section 5725.15 of the Revised 70237  
Code for the calendar year immediately preceding the financial 70238  
institution's tax year; 70239

(c) The tax rate imposed under division (D) of section 70240  
5707.03 of the Revised Code for the calendar year immediately 70241  
preceding the financial institution's tax year. 70242

(D)(1) The principles and concepts set forth in section 70243  
5733.057 of the Revised Code shall apply to ascertain if a dealer 70244  
in intangibles is a member of a qualifying controlled group of 70245  
which the financial institution also is a member and to ascertain 70246  
the cost of the financial institution's direct investment in the 70247  
capital stock of the qualifying dealer in intangibles. 70248

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 70249  
Code to the contrary, a financial institution claiming the credit 70250  
provided by this section has the burden to establish by a 70251  
preponderance of the evidence that none of the doctrines 70252

enumerated in that section would apply to deny to the financial 70253  
institution all or a part of the credit otherwise provided by this 70254  
section. 70255

(E) For tax years 2002 and 2003, the credit allowed by this 70256  
section applies only if the qualifying dealer in intangibles on 70257  
account of which the financial institution is claiming the credit 70258  
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 70259  
January 15, 2002, a written statement that the qualifying dealer 70260  
in intangibles irrevocably agrees that it will not seek a refund 70261  
of the tax paid by the dealer under section 5707.03 of the Revised 70262  
Code in 2000 and 2001, and irrevocably agrees to continue paying 70263  
that tax in 2002, regardless of the amendment of section 5725.26 70264  
of the Revised Code by Am. Sub. H.B. 405 of the 124th general 70265  
assembly. 70266

Sec. 5733.55. (A) As used in this section: 70267

(1) "9-1-1 system" has the same meaning as in section 4931.40 70268  
of the Revised Code. 70269

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 70270  
approved by the public utilities commission for the telephone 70271  
network portion of a 9-1-1 system pursuant to section 4931.47 of 70272  
the Revised Code. 70273

(3) "Eligible nonrecurring 9-1-1 charges" means all 70274  
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 70275

(a) Charges for a system that was not established pursuant to 70276  
a plan adopted under section 4931.44 of the Revised Code or an 70277  
agreement under section 4931.48 of the Revised Code; 70278

(b) Charges for that part of a system established pursuant to 70279  
such a plan or agreement that are excluded from the credit by 70280  
division (C)(2) of section 4931.47 of the Revised Code. 70281

(4) "Telephone company" has the same meaning as in section 70282

5727.01 of the Revised Code. 70283

(B) Beginning in tax year 2005, a telephone company shall be 70284  
allowed a nonrefundable credit against the tax imposed by section 70285  
5733.06 of the Revised Code equal to the amount of its eligible 70286  
nonrecurring 9-1-1 charges. The credit shall be claimed for the 70287  
company's taxable year that covers the period in which the 9-1-1 70288  
service for which the credit is claimed becomes available for use. 70289  
The credit shall be claimed in the order required by section 70290  
5733.98 of the Revised Code. If the credit exceeds the total taxes 70291  
due under section 5733.06 of the Revised Code for the tax year, 70292  
the commissioner shall credit the excess against taxes due under 70293  
that section for succeeding tax years until the full amount of the 70294  
credit is granted. 70295

(C) After the last day a return, with any extensions, may be 70296  
filed by any telephone company that is eligible to claim a credit 70297  
under this section, the commissioner shall determine whether the 70298  
sum of the credits allowed for prior tax years commencing with tax 70299  
year 2005 plus the sum of the credits claimed for the current tax 70300  
year exceeds fifteen million dollars. If it does, the credits 70301  
allowed under this section for the current tax year shall be 70302  
reduced by a uniform percentage such that the sum of the credits 70303  
allowed for the current tax year do not exceed fifteen million 70304  
dollars claimed by all telephone companies for all tax years. 70305  
Thereafter, no credit shall be granted under this section, except 70306  
for the remaining portions of any credits allowed under division 70307  
(B) of this section. 70308

(D) A telephone company that is entitled to carry forward a 70309  
credit against its public utility excise tax liability under 70310  
section 5727.39 of the Revised Code is entitled to carry forward 70311  
any amount of that credit remaining after its last public utility 70312  
excise tax payment for the period of July 1, 2003, through June 70313  
30, 2004, and claim that amount as a credit against its 70314

corporation franchise tax liability under this section. Nothing in 70315  
this section authorizes a telephone company to claim a credit 70316  
under this section for any eligible nonrecurring 9-1-1 charges for 70317  
which it has already claimed a credit under section 5727.39 of the 70318  
Revised Code. 70319

**Sec. 5733.56.** Beginning in tax year 2005, a telephone company 70320  
that provides any telephone service program to aid the 70321  
communicatively impaired in accessing the telephone network under 70322  
section 4905.79 of the Revised Code is allowed a nonrefundable 70323  
credit against the tax imposed by section 5733.06 of the Revised 70324  
Code. The amount of the credit is the cost incurred by the company 70325  
for providing the telephone service program during its taxable 70326  
year, excluding any costs incurred prior to July 1, 2004. If the 70327  
tax commissioner determines that the credit claimed under this 70328  
section by a telephone company was not correct, the commissioner 70329  
shall determine the proper credit. 70330

A telephone company shall claim the credit in the order 70331  
required by section 5733.98 of the Revised Code. If the credit 70332  
exceeds the total taxes due under section 5733.06 of the Revised 70333  
Code for the tax year, the commissioner shall credit the excess 70334  
against taxes due under that section for succeeding tax years 70335  
until the full amount of the credit is granted. Nothing in this 70336  
section authorizes a telephone company to claim a credit under 70337  
this section for any costs incurred for providing a telephone 70338  
service program for which it is claiming a credit under section 70339  
5727.44 of the Revised Code. 70340

**Sec. 5733.57.** (A) As used in this section: 70341

(1) "Small telephone company" means a telephone company, 70342  
existing as such as of January 1, 2003, with twenty-five thousand 70343  
or fewer access lines as shown on the company's annual report 70344

filed under section 4905.14 of the Revised Code for the calendar 70345  
year immediately preceding the tax year, and is an "incumbent 70346  
local exchange carrier" under 47 U.S.C. 251(h). 70347

(2) "Gross receipts tax amount" means the product obtained by 70348  
multiplying four and three-fourths per cent by the amount of a 70349  
small telephone company's taxable gross receipts, excluding the 70350  
deduction of twenty-five thousand dollars, that the tax 70351  
commissioner would have determined under section 5727.33 of the 70352  
Revised Code for that small telephone company for the annual 70353  
period ending on the thirtieth day of June of the calendar year 70354  
immediately preceding the tax year, as that section applied in the 70355  
measurement period from July 1, 2002, to June 30, 2003. 70356

(3) "Applicable percentage" means one hundred per cent for 70357  
tax year 2005; eighty per cent for tax year 2006; sixty per cent 70358  
for tax year 2007; forty per cent for tax year 2008; twenty per 70359  
cent for tax year 2009; and zero per cent for each subsequent tax 70360  
year thereafter. 70361

(4) "Applicable amount" means the amount resulting from 70362  
subtracting the gross receipts tax amount from the tax imposed by 70363  
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 70364  
the tax year, without regard to any credits available to the small 70365  
telephone company. 70366

(B)(1) Except as provided in division (B)(2) of this section, 70367  
beginning in tax year 2005, a small telephone company is hereby 70368  
allowed a nonrefundable credit against the tax imposed by sections 70369  
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 70370  
product obtained by multiplying the applicable percentage by the 70371  
applicable amount. The credit shall be claimed in the order 70372  
required by section 5733.98 of the Revised Code. 70373

(2) If the applicable amount for a tax year is less than 70374  
zero, a small telephone company shall not be allowed for that tax 70375

year the credit provided under this section. 70376

**Sec. 5733.98.** (A) To provide a uniform procedure for 70377  
calculating the amount of tax imposed by section 5733.06 of the 70378  
Revised Code that is due under this chapter, a taxpayer shall 70379  
claim any credits to which it is entitled in the following order, 70380  
except as otherwise provided in section 5733.058 of the Revised 70381  
Code: 70382

(1) The credit for taxes paid by a qualifying pass-through 70383  
entity allowed under section 5733.0611 of the Revised Code; 70384

(2) The credit allowed for financial institutions under 70385  
section 5733.45 of the Revised Code; 70386

(3) The credit for qualifying affiliated groups under section 70387  
5733.068 of the Revised Code; 70388

(4) The subsidiary corporation credit under section 5733.067 70389  
of the Revised Code; 70390

(5) The savings and loan assessment credit under section 70391  
5733.063 of the Revised Code; 70392

(6) The credit for recycling and litter prevention donations 70393  
under section 5733.064 of the Revised Code; 70394

(7) The credit for employers that enter into agreements with 70395  
child day-care centers under section 5733.36 of the Revised Code; 70396

(8) The credit for employers that reimburse employee child 70397  
day-care expenses under section 5733.38 of the Revised Code; 70398

(9) The credit for maintaining railroad active grade crossing 70399  
warning devices under section 5733.43 of the Revised Code; 70400

(10) The credit for purchases of lights and reflectors under 70401  
section 5733.44 of the Revised Code; 70402

(11) The job retention credit under division (B) of section 70403  
5733.0610 of the Revised Code; 70404

(12) The credit for losses on loans made under the Ohio	70405
venture capital program under sections 150.01 to 150.10 of <del>th</del> <u>the</u>	70406
Revised Code if the taxpayer elected a nonrefundable credit under	70407
section 150.07 of the Revised Code;	70408
(13) The credit for purchases of new manufacturing machinery	70409
and equipment under section 5733.31 or section 5733.311 of the	70410
Revised Code;	70411
(14) The second credit for purchases of new manufacturing	70412
machinery and equipment under section 5733.33 of the Revised Code;	70413
(15) The job training credit under section 5733.42 of the	70414
Revised Code;	70415
(16) The credit for qualified research expenses under section	70416
5733.351 of the Revised Code;	70417
(17) The enterprise zone credit under section 5709.66 of the	70418
Revised Code;	70419
(18) The credit for the eligible costs associated with a	70420
voluntary action under section 5733.34 of the Revised Code;	70421
(19) The credit for employers that establish on-site child	70422
day-care under section 5733.37 of the Revised Code;	70423
(20) The ethanol plant investment credit under section	70424
5733.46 of the Revised Code;	70425
(21) The credit for purchases of qualifying grape production	70426
property under section 5733.32 of the Revised Code;	70427
(22) The export sales credit under section 5733.069 of the	70428
Revised Code;	70429
(23) The credit for research and development and technology	70430
transfer investors under section 5733.35 of the Revised Code;	70431
(24) The enterprise zone credits under section 5709.65 of the	70432
Revised Code;	70433

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code; 70434  
70435

(26) The credit for small telephone companies under section 5733.57 of the Revised Code; 70436  
70437

(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code; 70438  
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(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code; 70440  
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(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 70443  
70444

~~(27)~~(30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 70445  
70446

~~(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. 70447  
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(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. 70451  
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**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 70458  
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section 5531.08 of the Revised Code, determines instead will be 70464  
paid from moneys in the highway operating fund; to enable the 70465  
counties of the state properly to plan, maintain, and repair their 70466  
roads and to pay principal, interest, and charges on bonds and 70467  
other obligations issued pursuant to Chapter 133. of the Revised 70468  
Code for highway improvements; to enable the municipal 70469  
corporations to plan, construct, reconstruct, repave, widen, 70470  
maintain, repair, clear, and clean public highways, roads, and 70471  
streets, and to pay the principal, interest, and charges on bonds 70472  
and other obligations issued pursuant to Chapter 133. of the 70473  
Revised Code for highway improvements; to enable the Ohio turnpike 70474  
commission to construct, reconstruct, maintain, and repair 70475  
turnpike projects; to maintain and repair bridges and viaducts; to 70476  
purchase, erect, and maintain street and traffic signs and 70477  
markers; to purchase, erect, and maintain traffic lights and 70478  
signals; to pay the costs apportioned to the public under sections 70479  
4907.47 and 4907.471 of the Revised Code and to supplement revenue 70480  
already available for such purposes; to pay the costs incurred by 70481  
the public utilities commission in administering sections 4907.47 70482  
to 4907.476 of the Revised Code; to distribute equitably among 70483  
those persons using the privilege of driving motor vehicles upon 70484  
such highways and streets the cost of maintaining and repairing 70485  
them; to pay the interest, principal, and charges on highway 70486  
capital improvements bonds and other obligations issued pursuant 70487  
to Section 2m of Article VIII, Ohio Constitution, and section 70488  
151.06 of the Revised Code; to pay the interest, principal, and 70489  
charges on highway obligations issued pursuant to Section 2i of 70490  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 70491  
of the Revised Code; ~~and~~ to provide revenue for the purposes of 70492  
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 70493  
expenses of the department of taxation incident to the 70494  
administration of the motor fuel laws, a motor fuel excise tax is 70495  
hereby imposed on all motor fuel dealers upon receipt of motor 70496

fuel within this state at the rate of two cents plus the cents per 70497  
gallon rate on each gallon so received, to be computed in the 70498  
manner set forth in section 5735.06 of the Revised Code; provided 70499  
that no tax is hereby imposed upon the following transactions: 70500

(1) The sale of dyed diesel fuel by a licensed motor fuel 70501  
dealer from a location other than a retail service station 70502  
provided the licensed motor fuel dealer places on the face of the 70503  
delivery document or invoice, or both if both are used, a 70504  
conspicuous notice stating that the fuel is dyed and is not for 70505  
taxable use, and that taxable use of that fuel is subject to a 70506  
penalty. The tax commissioner, by rule, may provide that any 70507  
notice conforming to rules or regulations issued by the United 70508  
States department of the treasury or the Internal Revenue Service 70509  
is sufficient notice for the purposes of division (A)(1) of this 70510  
section. 70511

(2) The sale of K-1 kerosene to a retail service station, 70512  
except when placed directly in the fuel supply tank of a motor 70513  
vehicle. Such sale shall be rebuttably presumed to not be 70514  
distributed or sold for use or used to generate power for the 70515  
operation of motor vehicles upon the public highways or upon the 70516  
waters within the boundaries of this state. 70517

(3) The sale of motor fuel by a licensed motor fuel dealer to 70518  
another licensed motor fuel dealer; 70519

(4) The exportation of motor fuel by a licensed motor fuel 70520  
dealer from this state to any other state or foreign country; 70521

(5) The sale of motor fuel to the United States government or 70522  
any of its agencies, except such tax as is permitted by it, where 70523  
such sale is evidenced by an exemption certificate, in a form 70524  
approved by the tax commissioner, executed by the United States 70525  
government or an agency thereof certifying that the motor fuel 70526  
therein identified has been purchased for the exclusive use of the 70527

United States government or its agency; 70528

(6) The sale of motor fuel ~~which~~ that is in the process of 70529  
transportation in foreign or interstate commerce, except ~~in so far~~ 70530  
insofar as it may be taxable under the Constitution and statutes 70531  
of the United States, and except as may be agreed upon in writing 70532  
by the dealer and the commissioner; 70533

(7) The sale of motor fuel when sold exclusively for use in 70534  
the operation of aircraft, where such sale is evidenced by an 70535  
exemption certificate prescribed by the commissioner and executed 70536  
by the purchaser certifying that the motor fuel purchased has been 70537  
purchased for exclusive use in the operation of aircraft; 70538

(8) The sale for exportation of motor fuel by a licensed 70539  
motor fuel dealer to a licensed exporter type A; 70540

(9) The sale for exportation of motor fuel by a licensed 70541  
motor fuel dealer to a licensed exporter type B, provided that the 70542  
destination state motor fuel tax has been paid or will be accrued 70543  
and paid by the licensed motor fuel dealer. 70544

(10) The sale to a consumer of diesel fuel, by a motor fuel 70545  
dealer for delivery from a bulk lot vehicle, for consumption in 70546  
operating a vessel when the use of such fuel in a vessel would 70547  
otherwise qualify for a refund under section 5735.14 of the 70548  
Revised Code. 70549

Division (A)(1) of this section does not apply to the sale or 70550  
distribution of dyed diesel fuel used to operate a motor vehicle 70551  
on the public highways or upon water within the boundaries of this 70552  
state by persons permitted under regulations of the United States 70553  
department of the treasury or of the Internal Revenue Service to 70554  
so use dyed diesel fuel. 70555

(B) The two cent motor fuel tax levied by this section is 70556  
also for the purpose of paying the expenses of administering and 70557  
enforcing the state law relating to the registration and operation 70558

of motor vehicles. 70559

(C) After the tax provided for by this section on the receipt 70560  
of any motor fuel has been paid by the motor fuel dealer, the 70561  
motor fuel may thereafter be used, sold, or resold by any person 70562  
having lawful title to it, without incurring liability for such 70563  
tax. 70564

If a licensed motor fuel dealer sells motor fuel received by 70565  
the licensed motor fuel dealer to another licensed motor fuel 70566  
dealer, the seller may deduct on the report required by section 70567  
5735.06 of the Revised Code the number of gallons so sold for the 70568  
month within which the motor fuel was sold or delivered. In this 70569  
event the number of gallons is deemed to have been received by the 70570  
purchaser, who shall report and pay the tax imposed thereon. 70571

Sec. 5735.053. There is hereby created in the state treasury 70572  
the motor fuel tax administration fund for the purpose of paying 70573  
the expenses of the department of taxation incident to the 70574  
administration of the motor fuel laws. After the treasurer of 70575  
state credits the tax refund fund out of tax receipts as required 70576  
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 70577  
Code, the treasurer of state shall transfer to the motor fuel tax 70578  
administration fund two hundred seventy-five one-thousandths per 70579  
cent of the receipts from the taxes levied by sections 5735.05, 70580  
5735.25, 5735.29, and 5735.30 of the Revised Code. 70581

**Sec. 5735.14.** (A) Any person who uses any motor fuel, on 70582  
which the tax imposed by this chapter has been paid, for the 70583  
purpose of operating stationary gas engines, tractors not used on 70584  
public highways, unlicensed motor vehicles used exclusively in 70585  
intraplant operations, vessels when used in trade, including 70586  
vessels when used in connection with an activity that constitutes 70587  
a person's chief business or means of livelihood or any other 70588

vessel used entirely for commercial purposes, vessels used for 70589  
commercial fishing, vessels used by the sea scout department of 70590  
the boy scouts of America chiefly for training scouts in 70591  
seamanship, vessels used or owned by any railroad company, 70592  
railroad car ferry company, the United States, this state, or any 70593  
political subdivision of this state, or aircraft, or who uses any 70594  
such fuel upon which such tax has been paid, for cleaning or for 70595  
dyeing, or any purpose other than the operation of motor vehicles 70596  
upon highways or upon waters within the boundaries of this state, 70597  
shall be reimbursed in the amount of the tax so paid on such motor 70598  
fuel as provided in this section; provided, that any person 70599  
purchasing motor fuel in this state on which taxes levied under 70600  
Title LVII of the Revised Code have been paid shall be reimbursed 70601  
for such taxes paid in this state on such fuel used by that person 70602  
in another state on which a tax is paid for such usage, except 70603  
such tax used as a credit against the tax levied by section 70604  
5728.06 of the Revised Code. A person shall not be reimbursed for 70605  
taxes paid on fuel that is used while a motor vehicle is idling or 70606  
used to provide comfort or safety in the operation of a motor 70607  
vehicle. Sales of motor fuel, on which the tax imposed by this 70608  
chapter has been paid, from one person to another do not 70609  
constitute use of the fuel and are not subject to a refund under 70610  
this section. 70611

Such (B) Any person who uses in this state any motor fuel 70612  
with water intentionally added to the fuel, on which the taxes 70613  
imposed by this chapter or Chapter 5728. of the Revised Code have 70614  
been paid, shall be reimbursed in the amount of the taxes so paid 70615  
on ninety-five per cent of the water. This division applies only 70616  
to motor fuel that contains at least nine per cent water, by 70617  
volume. 70618

(C) A person claiming reimbursement under this section shall 70619  
file with the tax commissioner an application for refund within 70620

one year from the date of purchase, stating the quantity of fuel 70621  
used for the refundable purposes ~~other than the operation of motor~~ 70622  
~~vehicles in division (A) or (B) of this section~~, except that no 70623  
person shall file a claim for the tax on fewer than one hundred 70624  
gallons of motor fuel. An application for refund filed for the 70625  
purpose of division (B) of this section also shall state the 70626  
quantity of water intentionally added to the motor fuel. No person 70627  
shall claim reimbursement under that division on fewer than one 70628  
hundred gallons of water. The application shall be accompanied by 70629  
the statement described in section 5735.15 of the Revised Code 70630  
showing such purchase, together with evidence of payment thereof. 70631

(D) After consideration of the application and statement, the 70632  
commissioner shall determine the amount of refund to which the 70633  
applicant is entitled. If the amount is not less than that 70634  
claimed, the commissioner shall certify the amount to the director 70635  
of budget and management and treasurer of state for payment from 70636  
the tax refund fund created by section 5703.052 of the Revised 70637  
Code. If the amount is less than that claimed, the commissioner 70638  
shall proceed in accordance with section 5703.70 of the Revised 70639  
Code. 70640

No refund shall be authorized or paid under this section on a 70641  
single claim for tax on fewer than one hundred gallons of motor 70642  
fuel. And, when water has been intentionally added to fuel, no 70643  
refund shall be authorized or paid under this section on a single 70644  
claim for tax on fewer than one hundred gallons of water. The 70645  
commissioner may require that the application be supported by the 70646  
affidavit of the claimant. 70647

The refund authorized by this section or section 5703.70 of 70648  
the Revised Code shall be reduced by the cents per gallon amount 70649  
of any qualified fuel credit received under section 5735.145 of 70650  
the Revised Code, as determined by the commissioner, for each 70651  
gallon of qualified fuel included in the total gallonage of motor 70652

fuel upon which the refund is computed. 70653

(E) The right to receive any refund under this section or 70654  
section 5703.70 of the Revised Code is not assignable. The payment 70655  
of this refund shall not be made to any person other than the 70656  
person originally entitled thereto who used the motor fuel upon 70657  
which the claim for refund is based, except that such refunds, 70658  
when allowed and certified as provided in this section, may be 70659  
paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 70660  
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 70661  
person. 70662

**Sec. 5735.142.** (A)(1) Any person who uses any motor fuel, on 70663  
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 70664  
the Revised Code has been paid, for the purpose of operating a 70665  
transit bus shall be reimbursed in the amount of the tax paid on 70666  
motor fuel used by public transportation systems providing transit 70667  
or paratransit service on a regular and continuing basis within 70668  
the state; 70669

(2) A city, exempted village, joint vocational, or local 70670  
school district or educational service center that ~~uses~~ purchases 70671  
any motor fuel for school district or service center operations, 70672  
on which any tax imposed by section 5735.29 of the Revised Code 70673  
that became effective on or after July 1, 2003, has been paid, 70674  
may, if an application is filed under this section, be reimbursed 70675  
in the amount of all but two cents per gallon of ~~that~~ the total 70676  
tax imposed by such section and paid on motor fuel, ~~used for~~ 70677  
~~providing transportation for pupils in a vehicle the district owns~~ 70678  
~~or leases.~~ 70679

(B) Such person, school district, or educational service 70680  
center shall file with the tax commissioner an application for 70681  
refund within one year from the date of purchase, stating the 70682  
quantity of fuel used for operating transit buses used by local 70683

transit systems in furnishing scheduled common carrier, public 70684  
passenger land transportation service along regular routes 70685  
primarily in one or more municipal corporations or for operating 70686  
vehicles used ~~by for school districts to transport pupils district~~ 70687  
or service center operations. However, no ~~person shall file a~~ 70688  
claim shall be made for the tax on fewer than one hundred gallons 70689  
of motor fuel. A school district or educational service center 70690  
shall not apply for a refund for any tax paid on motor fuel that 70691  
is sold by the district or educational service center. The 70692  
application shall be accompanied by the statement described in 70693  
section 5735.15 of the Revised Code showing the purchase, together 70694  
with evidence of payment thereof. 70695

(C) After consideration of the application and statement, the 70696  
commissioner shall determine the amount of refund to which the 70697  
applicant is entitled. If the amount is not less than that 70698  
claimed, the commissioner shall certify the amount to the director 70699  
of budget and management and treasurer of state for payment from 70700  
the tax refund fund created by section 5703.052 of the Revised 70701  
Code. If the amount is less than that claimed, the commissioner 70702  
shall proceed in accordance with section 5703.70 of the Revised 70703  
Code. 70704

The commissioner may require that the application be 70705  
supported by the affidavit of the claimant. No refund shall be 70706  
authorized or ordered for any single claim for the tax on fewer 70707  
than one hundred gallons of motor fuel. No refund shall be 70708  
authorized or ordered on motor fuel that is sold by a school 70709  
district or educational service center. 70710

(D) The refund authorized by this section or section 5703.70 70711  
of the Revised Code shall be reduced by the cents per gallon 70712  
amount of any qualified fuel credit received under section 70713  
5735.145 of the Revised Code, as determined by the commissioner, 70714  
for each gallon of qualified fuel included in the total gallonage 70715

of motor fuel upon which the refund is computed. 70716

(E) The right to receive any refund under this section or 70717  
section 5703.70 of the Revised Code is not assignable. The payment 70718  
of this refund shall not be made to any person or entity other 70719  
than the person or entity originally entitled thereto who used the 70720  
motor fuel upon which the claim for refund is based, except that 70721  
the refund when allowed and certified, as provided in this 70722  
section, may be paid to the executor, the administrator, the 70723  
receiver, the trustee in bankruptcy, or the assignee in insolvency 70724  
proceedings of the person. 70725

**Sec. 5735.15.** When motor fuel is sold to a person who claims 70726  
to be entitled to a refund under section 5735.14 or 5735.142 of 70727  
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 70728  
~~duplicate on forms prescribed and supplied by the tax~~ 70729  
~~commissioner, which forms shall have printed thereon~~ provide to 70730  
the person documentation that indicates that the liability to the 70731  
state for the excise tax imposed under the motor fuel laws of this 70732  
state on such motor fuel has been assumed by the seller, and that 70733  
said excise tax has already been paid or will be paid by the 70734  
seller when the same becomes payable, ~~a statement setting.~~ The 70735  
documentation also shall set forth the name and address of the 70736  
purchaser, the number of gallons of motor fuel sold, the price 70737  
paid for or the price per gallon of the motor fuel sold, the 70738  
proposed use for which such motor fuel is purchased, and such 70739  
other information as the commissioner requires. When motor fuel is 70740  
sold to a person who claims to be entitled to reimbursement under 70741  
division (B) of section 5735.14 of the Revised Code, the 70742  
documentation also shall state the number of gallons of water 70743  
intentionally added to the motor fuel. The ~~original of such~~ 70744  
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 70745  
~~duplicate~~ a copy shall be retained by the seller. 70746

Sec. 5735.19. (A) The tax commissioner may examine, during 70747  
the usual business hours of the day, the records, books, and 70748  
~~papers~~ invoices, storage tanks, and any other equipment of any 70749  
motor fuel dealer, retail dealer, exporter, terminal operator, 70750  
purchaser, or common carrier pertaining to motor fuel received, 70751  
sold, shipped, or delivered, to determine whether the taxes 70752  
imposed by this chapter have been paid and to verify the truth and 70753  
accuracy of any statement, report, or return. The 70754

(B) The tax commissioner may, in the enforcement of the motor 70755  
fuel laws of this state, hold hearings, take the testimony of any 70756  
person, issue subpoenas and compel the attendance of witnesses, 70757  
and conduct such investigations as the commissioner deems 70758  
necessary, ~~but no person shall disclose the information acquired~~ 70759  
~~by the commissioner under this section, except when required to do~~ 70760  
~~so in court.~~ Such information or evidence is not privileged when 70761  
used by the state or any officer thereof in any proceeding for the 70762  
collection of the tax, or any prosecution for violation of the 70763  
motor fuel laws. 70764

(C) The commissioner may prescribe all forms upon which 70765  
reports shall be made to the commissioner, forms for claims for 70766  
refund presented to the commissioner, or forms of records to be 70767  
used by motor fuel dealers. 70768

(D)(1) As used in this division, "designated inspection site" 70769  
means any state highway inspection station, weigh station, mobile 70770  
station, or other similar location designated by the tax 70771  
commissioner to be used as a fuel inspection site. 70772

(2) An employee of the department of taxation that is so 70773  
authorized by the tax commissioner may physically inspect, 70774  
examine, or otherwise search any tank, reservoir, or other 70775  
container that can or may be used for the production, storage, or 70776  
transportation of fuel, fuel dyes, or fuel markers, and books and 70777

records, if any, that are maintained at the place of inspection 70778  
and are kept to determine tax liability under this chapter. 70779  
Inspections may be performed at any place at which motor fuel is 70780  
or may be produced or stored, or at any designated inspection 70781  
site. 70782

(3) An employee of the department of taxation who is a duly 70783  
authorized enforcement agent may detain any motor vehicle, train, 70784  
barge, ship, or vessel for the purpose of inspecting its fuel 70785  
tanks and storage tanks. Detainment shall be on the premises under 70786  
inspection or at a designated inspection site. Detainment may 70787  
continue for a reasonable period of time as is necessary to 70788  
determine the amount and composition of the fuel. 70789

(4) Any employee described in division (D)(2) or (3) of this 70790  
section who has been properly trained may take and remove samples 70791  
of fuel in quantities as are reasonably necessary to determine the 70792  
composition of the fuel. 70793

(5) No person shall refuse to allow an inspection under 70794  
division (D) of this section. Any person who refuses to allow an 70795  
inspection shall be subject to revocation or cancellation of any 70796  
license or permit issued under Chapter 5728. or 5735. of the 70797  
Revised Code. 70798

**Sec. 5735.23.** (A) Out of receipts from the tax levied by 70799  
section 5735.05 of the Revised Code, the treasurer of state shall 70800  
place to the credit of the tax refund fund established by section 70801  
5703.052 of the Revised Code amounts equal to the refunds 70802  
certified by the tax commissioner pursuant to sections 5735.13, 70803  
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 70804  
treasurer of state shall then transfer the amount required by 70805  
section 5735.051 of the Revised Code to the waterways safety fund 70806  
and, the amount required by section 4907.472 of the Revised Code 70807  
to the grade crossing protection fund, and the amount required by 70808

section 5735.053 of the Revised Code to the motor fuel tax 70809  
administration fund. 70810

(B) Except as provided in division (D) of this section, each 70811  
month the balance of the receipts from the tax levied by section 70812  
5735.05 of the Revised Code shall be credited, after receipt by 70813  
the treasurer of state of certification from the commissioners of 70814  
the sinking fund, as required by section 5528.35 of the Revised 70815  
Code, that there are sufficient moneys to the credit of the 70816  
highway obligations bond retirement fund to meet in full all 70817  
payments of interest, principal, and charges for the retirement of 70818  
highway obligations issued pursuant to Section 2i of Article VIII, 70819  
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 70820  
Code due and payable during the current calendar year, as follows: 70821

(1) To the state and local government highway distribution 70822  
fund, which is hereby created in the state treasury, an amount 70823  
that is the same percentage of the balance to be credited as that 70824  
portion of the tax per gallon determined under division (B)(2)(a) 70825  
of section 5735.06 of the Revised Code is of the total tax per 70826  
gallon determined under divisions (B)(2)(a) and (b) of that 70827  
section. 70828

(2) After making the distribution to the state and local 70829  
government highway distribution fund, the remainder shall be 70830  
credited as follows: 70831

(a) Thirty per cent to the gasoline excise tax fund for 70832  
distribution pursuant to division (A)(1) of section 5735.27 of the 70833  
Revised Code; 70834

(b) Twenty-five per cent to the gasoline excise tax fund for 70835  
distribution pursuant to division (A)(3) of section 5735.27 of the 70836  
Revised Code; 70837

(c) Except as provided in division (D) of this section, 70838  
forty-five per cent to the highway operating fund for distribution 70839

pursuant to division (B)(1) of section 5735.27 of the Revised Code. 70840  
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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: 70842  
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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; 70845  
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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. 70852  
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The remainder of the balance shall be distributed as follows on the fifteenth day of the following month: 70866  
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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 70868  
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purpose for which payments received under that division may be 70871  
used. Beginning August 15, 2004, the sum of two hundred 70872  
forty-eight thousand six hundred twenty-five dollars shall be 70873  
~~annually~~ monthly subtracted from the amount so computed and 70874  
credited to the highway operating fund. 70875

(b) Five per cent shall be paid to townships for distribution 70876  
pursuant to division (A)(5) of section 5735.27 of the Revised Code 70877  
and may be used for any purpose for which payments received under 70878  
that division may be used. Beginning August 15, 2004, the sum of 70879  
eighty-seven thousand seven hundred fifty dollars shall be 70880  
~~annually~~ monthly subtracted from the amount so computed and 70881  
credited to the highway operating fund. 70882

(c) Nine and three-tenths per cent shall be paid to counties 70883  
for distribution pursuant to division (A)(3) of section 5735.27 of 70884  
the Revised Code and may be used for any purpose for which 70885  
payments received under that division may be used. Beginning 70886  
August 15, 2004, the sum of two hundred forty-eight thousand six 70887  
hundred twenty-five dollars shall be ~~annually~~ monthly subtracted 70888  
from the amount so computed and credited to the highway operating 70889  
fund. 70890

(d) Except as provided in division (D) of this section, the 70891  
balance shall be transferred to the highway operating fund and 70892  
used for the purposes set forth in division (B)(1) of section 70893  
5735.27 of the Revised Code. 70894

(D) Beginning on the first day of September each fiscal year, 70895  
any amounts required to be credited or transferred to the highway 70896  
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 70897  
section shall be credited or transferred to the highway capital 70898  
improvement bond service fund created in section 151.06 of the 70899  
Revised Code, until such time as the office of budget and 70900  
management receives certification from the treasurer of state or 70901  
the treasurer of state's designee that sufficient money has been 70902

credited or transferred to the bond service fund to meet in full 70903  
all payments of debt service and financing costs due during the 70904  
fiscal year from that fund. 70905

**Sec. 5735.26.** The treasurer of state shall place to the 70906  
credit of the tax refund fund created by section 5703.052 of the 70907  
Revised Code, out of receipts from the tax levied by section 70908  
5735.25 of the Revised Code, amounts equal to the refunds 70909  
certified by the tax commissioner pursuant to sections 5735.142 70910  
and 5735.25 of the Revised Code, which shall be paid from such 70911  
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 70912  
~~for the maintenance and administration of the motor fuel laws.~~ The 70913  
treasurer of state shall then transfer the amount required by 70914  
section 5735.051 of the Revised Code to the waterways safety fund 70915  
and the amount required by section 5735.053 of the Revised Code to 70916  
the motor fuel tax administration fund. 70917

The balance of taxes collected under section 5735.25 of the 70918  
Revised Code shall be credited as follows, after the credits to 70919  
the tax refund fund, ~~and after deduction of the cost of~~ 70920  
~~administration of the motor fuel laws,~~ and after the ~~transfer~~ 70921  
transfers to the waterways safety fund and motor fuel tax 70922  
administration fund, and after receipt by the treasurer of state 70923  
of certifications from the commissioners of the sinking fund 70924  
certifying, as required by sections 5528.15 and 5528.35 of the 70925  
Revised Code, there are sufficient moneys to the credit of the 70926  
highway improvement bond retirement fund to meet in full all 70927  
payments of interest, principal, and charges for the retirement of 70928  
bonds and other obligations issued pursuant to Section 2g of 70929  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70930  
of the Revised Code due and payable during the current calendar 70931  
year, and that there are sufficient moneys to the credit of the 70932  
highway obligations bond retirement fund to meet in full all 70933  
payments of interest, principal, and charges for the retirement of 70934

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 70965  
corporations within the state in accordance with division (A)(2) 70966  
of section 5735.27 of the Revised Code, thirty-seven and fourteen 70967  
hundredths per cent of the specified portion shall be distributed 70968  
among the counties within the state in accordance with division 70969  
(A)(3) of section 5735.27 of the Revised Code, and twenty per cent 70970  
of the specified portion shall be combined with twenty per cent of 70971  
any amounts transferred from the highway operating fund to the 70972  
gasoline excise tax fund through biennial appropriations acts of 70973  
the general assembly pursuant to the planned phase-in of a new 70974  
source of funding for the state highway patrol, and shall be 70975  
distributed among the townships within the state in accordance 70976  
with division (A)(5)(b) of section 5735.27 of the Revised Code. 70977  
Subject to division (B) of this section, the remainder of the tax 70978  
levied by section 5735.29 of the Revised Code after receipt by the 70979  
treasurer of state of certifications from the commissioners of the 70980  
sinking fund certifying, as required by sections 5528.15 and 70981  
5528.35 of the Revised Code, that there are sufficient moneys to 70982  
the credit of the highway improvement bond retirement fund created 70983  
by section 5528.12 of the Revised Code to meet in full all 70984  
payments of interest, principal, and charges for the retirement of 70985  
bonds and other obligations issued pursuant to Section 2g of 70986  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70987  
of the Revised Code due and payable during the current calendar 70988  
year, and that there are sufficient moneys to the credit of the 70989  
highway obligations bond retirement fund created by section 70990  
5528.32 of the Revised Code to meet in full all payments of 70991  
interest, principal, and charges for the retirement of highway 70992  
obligations issued pursuant to Section 2i of Article VIII, Ohio 70993  
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 70994  
due and payable during the current calendar year, shall be 70995  
credited to the highway operating fund, which is hereby created in 70996  
the state treasury and shall be used solely for the purposes 70997

enumerated in section 5735.29 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B)(1) Effective August 15, 2003, prior to the distribution from the gasoline excise tax fund to municipal corporations of the forty-two and eighty-six hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(2) Effective August 15, 2003, prior to the distribution from the gasoline excise tax fund to counties of the thirty-seven and fourteen hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(3) Effective August 15, 2003, prior to crediting any revenue resulting from the tax levied by section 5735.29 of the Revised Code to the highway operating fund, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(C) As used in this section, "specified portion" means all of the following:

(1) Until August 15, 2003, none of the taxes collected under section 5735.29 of the Revised Code;

(2) Effective August 15, 2003, one-eighth 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~~ 71029  
transfers to the waterways safety fund and the motor fuel tax 71030  
administration fund; 71031

(3) Effective August 15, 2004, one-sixth of the balance of 71032  
taxes described in division (C)(2) of this section; 71033

(4) Effective August 15, 2005, three-sixteenths of the 71034  
balance of taxes described in division (C)(2) of this section. 71035

**Sec. 5735.30.** (A) For the purpose of providing funds to pay 71036  
the state's share of the cost of constructing and reconstructing 71037  
highways and eliminating railway grade crossings on the major 71038  
thoroughfares of the state highway system and urban extensions 71039  
thereof, to pay that portion of the construction cost of a highway 71040  
project which a county, township, or municipal corporation 71041  
normally would be required to pay, but which the director of 71042  
transportation, pursuant to division (B) of section 5531.08 of the 71043  
Revised Code, determines instead will be paid from moneys in the 71044  
highway operating fund, to pay the interest, principal, and 71045  
charges on bonds and other obligations issued pursuant to Section 71046  
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 71047  
5528.11 of the Revised Code, to pay the interest, principal, and 71048  
charges on highway obligations issued pursuant to Section 2i of 71049  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 71050  
of the Revised Code, ~~and~~ to provide revenues for the purposes of 71051  
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 71052  
expenses of the department of taxation incident to the 71053  
administration of the motor fuel laws, a motor fuel excise tax is 71054  
hereby imposed on all motor fuel dealers upon their receipt of 71055  
motor fuel within the state, at the rate of one cent on each 71056  
gallon so received, to be reported, computed, paid, collected, 71057  
administered, enforced, refunded, and subject to the same 71058  
exemptions and penalties as provided in this chapter of the 71059

Revised Code. 71060

The tax imposed by this section shall be in addition to the 71061  
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 71062  
Revised Code. 71063

(B) The treasurer of state shall place to the credit of the 71064  
tax refund fund created by section 5703.052 of the Revised Code, 71065  
out of receipts from the tax levied by this section, amounts equal 71066  
to the refunds certified by the tax commissioner pursuant to this 71067  
section. The refund provided for by ~~the first paragraph~~ division 71068  
(A) of this section shall be paid from such fund. The treasurer 71069  
shall then transfer the amount required by section 5735.051 of the 71070  
Revised Code to the waterways safety fund and the amount required 71071  
by section 5735.053 of the Revised Code to the motor fuel tax 71072  
administration fund. The balance of taxes for which the liability 71073  
has become fixed prior to July 1, 1955, under this section, after 71074  
the credit to the tax refund fund, shall be credited to the 71075  
highway operating fund. 71076

(C)(1) The moneys derived from the tax levied by this 71077  
section, after ~~the credit to the tax refund fund and the waterways~~ 71078  
~~safety fund as provided~~ and transfers required by division (B) of 71079  
this section, shall, during each calendar year, be credited to the 71080  
highway improvement bond retirement fund created by section 71081  
5528.12 of the Revised Code, until the commissioners of the 71082  
sinking fund certify to the treasurer of state, as required by 71083  
section 5528.17 of the Revised Code, that there are sufficient 71084  
moneys to the credit of the highway improvement bond retirement 71085  
fund to meet in full all payments of interest, principal, and 71086  
charges for the retirement of bonds and other obligations issued 71087  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71088  
sections 5528.10 and 5528.11 of the Revised Code due and payable 71089  
during the current calendar year and during the next succeeding 71090  
calendar year. From the date of the receipt of the certification 71091

required by section 5528.17 of the Revised Code by the treasurer 71092  
of state until the thirty-first day of December of the calendar 71093  
year in which such certification is made, all moneys received in 71094  
the state treasury from the tax levied by this section, after the 71095  
~~credit to the tax refund fund and the waterways safety fund as~~ 71096  
~~provided and transfers required by division (B) of this section,~~ 71097  
shall be credited to the highway obligations bond retirement fund 71098  
created by section 5528.32 of the Revised Code, until the 71099  
commissioners of the sinking fund certify to the treasurer of 71100  
state, as required by section 5528.38 of the Revised Code, that 71101  
there are sufficient moneys to the credit of the highway 71102  
obligations bond retirement fund to meet in full all payments of 71103  
interest, principal, and charges for the retirement of obligations 71104  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 71105  
and sections 5528.30 and 5528.31 of the Revised Code due and 71106  
payable during the current calendar year and during the next 71107  
succeeding calendar year. ~~From~~ 71108

(2) From the date of the receipt of the certification 71109  
required by section 5528.38 of the Revised Code by the treasurer 71110  
of state until the thirty-first day of December of the calendar 71111  
year in which such certification is made, all moneys received in 71112  
the state treasury from the tax levied by this section, after the 71113  
~~credit to the tax refund fund and the waterways safety fund as~~ 71114  
~~provided and transfers required by division (B) of this section,~~ 71115  
shall be credited to the highway operating fund, except as 71116  
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 71117  
section. 71118

(3) From the date of the receipt by the treasurer of state of 71119  
certifications from the commissioners of the sinking fund, as 71120  
required by sections 5528.18 and 5528.39 of the Revised Code, 71121  
certifying that the moneys to the credit of the highway 71122  
improvement bond retirement fund are sufficient to meet in full 71123

all payments of interest, principal, and charges for the 71124  
retirement of all bonds and other obligations which may be issued 71125  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71126  
sections 5528.10 and 5528.11 of the Revised Code, and to the 71127  
credit of the highway obligations bond retirement fund are 71128  
sufficient to meet in full all payments of interest, principal, 71129  
and charges for the retirement of all obligations issued pursuant 71130  
to Section 2i of Article VIII, Ohio Constitution, and sections 71131  
5528.30 and 5528.31 of the Revised Code, the moneys derived from 71132  
the tax levied by this section, after the credit to the tax refund 71133  
fund and the waterways safety fund as provided and transfers 71134  
required by division (B) of this section, shall be credited to the 71135  
highway operating fund. 71136

**Sec. 5735.99.** (A) Whoever violates division (F) of section 71137  
5735.02, division (D) of section 5735.021, division (B) of section 71138  
5735.063, division (B) of section 5735.064, or division (A)(2) of 71139  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71140  
the first degree. 71141

(B) Whoever violates division (E) of section 5735.06 of the 71142  
Revised Code is guilty of a felony of the fourth degree. 71143

(C) Whoever violates section 5735.025 or division (A)(1) of 71144  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71145  
the first degree, if the tax owed or the fraudulent refund 71146  
received is not greater than five hundred dollars. If the tax owed 71147  
or the fraudulent refund received is greater than five hundred 71148  
dollars but not greater than ten thousand dollars, the offender is 71149  
guilty of a felony of the fourth degree; for each subsequent 71150  
offense when the tax owed or the fraudulent refund received is 71151  
greater than five hundred dollars but not greater than ten 71152  
thousand dollars, the offender is guilty of a felony of the third 71153  
degree. If the tax owed or the fraudulent refund received is 71154

greater than ten thousand dollars, the offender is guilty of a 71155  
felony of the second degree. 71156

(D) Whoever violates a provision of this chapter for which a 71157  
penalty is not otherwise prescribed under this section is guilty 71158  
of a misdemeanor of the fourth degree. 71159

(E) Whoever violates division (D)(5) of section 5735.19 of 71160  
the Revised Code is guilty of a misdemeanor of the first degree. 71161

**Sec. 5739.01.** As used in this chapter: 71162

(A) "Person" includes individuals, receivers, assignees, 71163  
trustees in bankruptcy, estates, firms, partnerships, 71164  
associations, joint-stock companies, joint ventures, clubs, 71165  
societies, corporations, the state and its political subdivisions, 71166  
and combinations of individuals of any form. 71167

(B) "Sale" and "selling" include all of the following 71168  
transactions for a consideration in any manner, whether absolutely 71169  
or conditionally, whether for a price or rental, in money or by 71170  
exchange, and by any means whatsoever: 71171

(1) All transactions by which title or possession, or both, 71172  
of tangible personal property, is or is to be transferred, or a 71173  
license to use or consume tangible personal property is or is to 71174  
be granted; 71175

(2) All transactions by which lodging by a hotel is or is to 71176  
be furnished to transient guests; 71177

(3) All transactions by which: 71178

(a) An item of tangible personal property is or is to be 71179  
repaired, except property, the purchase of which would not be 71180  
subject to the tax imposed by section 5739.02 of the Revised Code; 71181

(b) An item of tangible personal property is or is to be 71182  
installed, except property, the purchase of which would not be 71183

subject to the tax imposed by section 5739.02 of the Revised Code 71184  
or property that is or is to be incorporated into and will become 71185  
a part of a production, transmission, transportation, or 71186  
distribution system for the delivery of a public utility service; 71187

(c) The service of washing, cleaning, waxing, polishing, or 71188  
painting a motor vehicle is or is to be furnished; 71189

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 71190  
or are to be provided; 71191

(e) Automatic data processing, computer services, or 71192  
electronic information services are or are to be provided for use 71193  
in business when the true object of the transaction is the receipt 71194  
by the consumer of automatic data processing, computer services, 71195  
or electronic information services rather than the receipt of 71196  
personal or professional services to which automatic data 71197  
processing, computer services, or electronic information services 71198  
are incidental or supplemental. Notwithstanding any other 71199  
provision of this chapter, such transactions that occur between 71200  
members of an affiliated group are not sales. An affiliated group 71201  
means two or more persons related in such a way that one person 71202  
owns or controls the business operation of another member of the 71203  
group. In the case of corporations with stock, one corporation 71204  
owns or controls another if it owns more than fifty per cent of 71205  
the other corporation's common stock with voting rights. 71206

(f) Telecommunications service, other than mobile 71207  
telecommunications service after July 31, 2002, is or is to be 71208  
provided ~~that originates or terminates in this state and is~~ 71209  
~~charged in the records of the telecommunications service vendor to~~ 71210  
~~the consumer's telephone number or account in this state, or that~~ 71211  
~~both originates and terminates in this state;~~ but does not 71212  
include transactions by which ~~telecommunications service is paid~~ 71213  
~~for by using a prepaid authorization number or prepaid telephone~~ 71214  
~~calling card, or by which~~ local telecommunications service is 71215

obtained from a coin-operated telephone and paid for by using coin;	71216 71217
(g) Landscaping and lawn care service is or is to be provided;	71218 71219
(h) Private investigation and security service is or is to be provided;	71220 71221
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	71222 71223
(j) Building maintenance and janitorial service is or is to be provided;	71224 71225
(k) Employment service is or is to be provided;	71226
(l) Employment placement service is or is to be provided;	71227
(m) Exterminating service is or is to be provided;	71228
(n) Physical fitness facility service is or is to be provided;	71229 71230
(o) Recreation and sports club service is or is to be provided.	71231 71232
(p) After July 31, 2002, mobile telecommunications service is or is to be provided <del>in this state</del> 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.	71233 71234 71235 71236 71237
<u>(q) Satellite broadcasting service is or is to be provided;</u>	71238
<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>	71239 71240 71241 71242 71243 71244

XLVII of the Revised Code who are authorized to perform 71245  
therapeutic massage pursuant to their scope of practice, or the 71246  
cutting, coloring, or styling of an individual's hair. 71247

(s) The transportation of persons by motor vehicle or 71248  
aircraft is or is to be provided, when the point of origin and the 71249  
point of termination are both within this state, except for 71250  
transportation provided by an ambulance service, by a transit bus, 71251  
as defined in section 5735.01 of the Revised Code, and 71252  
transportation provided by a citizen of the United States holding 71253  
a certificate of public convenience and necessity issued under 49 71254  
U.S.C. 41102; 71255

(t) Motor vehicle towing service is or is to be provided. As 71256  
used in this division, "motor vehicle towing service" means the 71257  
towing or conveyance of a wrecked, disabled, or illegally parked 71258  
motor vehicle. 71259

(u) Snow removal service is or is to be provided. As used in 71260  
this division, "snow removal" means the removal of snow by any 71261  
mechanized means. 71262

(4) All transactions by which printed, imprinted, 71263  
overprinted, lithographic, multilithic, blueprinted, photostatic, 71264  
or other productions or reproductions of written or graphic matter 71265  
are or are to be furnished or transferred; 71266

(5) The production or fabrication of tangible personal 71267  
property for a consideration for consumers who furnish either 71268  
directly or indirectly the materials used in the production of 71269  
fabrication work; and include the furnishing, preparing, or 71270  
serving for a consideration of any tangible personal property 71271  
consumed on the premises of the person furnishing, preparing, or 71272  
serving such tangible personal property. Except as provided in 71273  
section 5739.03 of the Revised Code, a construction contract 71274  
pursuant to which tangible personal property is or is to be 71275

incorporated into a structure or improvement on and becoming a 71276  
part of real property is not a sale of such tangible personal 71277  
property. The construction contractor is the consumer of such 71278  
tangible personal property, provided that the sale and 71279  
installation of carpeting, the sale and installation of 71280  
agricultural land tile, the sale and erection or installation of 71281  
portable grain bins, or the provision of landscaping and lawn care 71282  
service and the transfer of property as part of such service is 71283  
never a construction contract. The transfer of copyrighted motion 71284  
picture films for exhibition purposes is not a sale, except such 71285  
films as are used solely for advertising purposes. ~~Other than as~~ 71286  
~~provided in this section, "sale" and "selling" do not include~~ 71287  
~~transfers of interest in leased property where the original lessee~~ 71288  
~~and the terms of the original lease agreement remain unchanged, or~~ 71289  
~~professional, insurance, or personal service transactions that~~ 71290  
~~involve the transfer of tangible personal property as an~~ 71291  
~~inconsequential element, for which no separate charges are made.~~ 71292

As used in division (B)(5) of this section: 71293

(a) "Agricultural land tile" means fired clay or concrete 71294  
tile, or flexible or rigid perforated plastic pipe or tubing, 71295  
incorporated or to be incorporated into a subsurface drainage 71296  
system appurtenant to land used or to be used directly in 71297  
production by farming, agriculture, horticulture, or floriculture. 71298  
The term does not include such materials when they are or are to 71299  
be incorporated into a drainage system appurtenant to a building 71300  
or structure even if the building or structure is used or to be 71301  
used in such production. 71302

(b) "Portable grain bin" means a structure that is used or to 71303  
be used by a person engaged in farming or agriculture to shelter 71304  
the person's grain and that is designed to be disassembled without 71305  
significant damage to its component parts. 71306

(6) All transactions in which all of the shares of stock of a 71307

closely held corporation are transferred, if the corporation is 71308  
not engaging in business and its entire assets consist of boats, 71309  
planes, motor vehicles, or other tangible personal property 71310  
operated primarily for the use and enjoyment of the shareholders; 71311

(7) All transactions in which a warranty, maintenance or 71312  
service contract, or similar agreement by which the vendor of the 71313  
warranty, contract, or agreement agrees to repair or maintain the 71314  
tangible personal property of the consumer is or is to be 71315  
provided; 71316

(8) ~~All transactions by which a prepaid authorization number~~ 71317  
~~or a prepaid telephone calling card is or is to be transferred~~ All 71318  
transactions by which tangible personal property is or is to be 71319  
stored, except such property that the consumer of the storage 71320  
holds for sale in the regular course of business. 71321

Except as provided in this section, "sale" and "selling" do 71322  
not include transfers of interest in leased property where the 71323  
original lessee and the terms of the original lease agreement 71324  
remain unchanged, or professional, insurance, or personal service 71325  
transactions that involve the transfer of tangible personal 71326  
property as an inconsequential element, for which no separate 71327  
charges are made. 71328

(C) "Vendor" means the person providing the service or by 71329  
whom the transfer effected or license given by a sale is or is to 71330  
be made or given and, for sales described in division (B)(3)(i) of 71331  
this section, the telecommunications service vendor that provides 71332  
the nine hundred telephone service; if two or more persons are 71333  
engaged in business at the same place of business under a single 71334  
trade name in which all collections on account of sales by each 71335  
are made, such persons shall constitute a single vendor. 71336

Physicians, dentists, hospitals, and veterinarians who are 71337  
engaged in selling tangible personal property as received from 71338

others, such as eyeglasses, mouthwashes, dentifrices, or similar 71339  
articles, are vendors. Veterinarians who are engaged in 71340  
transferring to others for a consideration drugs, the dispensing 71341  
of which does not require an order of a licensed veterinarian or 71342  
physician under federal law, are vendors. 71343

(D)(1) "Consumer" means the person for whom the service is 71344  
provided, to whom the transfer effected or license given by a sale 71345  
is or is to be made or given, to whom the service described in 71346  
division (B)(3)(f) or (i) of this section is charged, or to whom 71347  
the admission is granted. 71348

(2) Physicians, dentists, hospitals, and blood banks operated 71349  
by nonprofit institutions and persons licensed to practice 71350  
veterinary medicine, surgery, and dentistry are consumers of all 71351  
tangible personal property and services purchased by them in 71352  
connection with the practice of medicine, dentistry, the rendition 71353  
of hospital or blood bank service, or the practice of veterinary 71354  
medicine, surgery, and dentistry. In addition to being consumers 71355  
of drugs administered by them or by their assistants according to 71356  
their direction, veterinarians also are consumers of drugs that 71357  
under federal law may be dispensed only by or upon the order of a 71358  
licensed veterinarian or physician, when transferred by them to 71359  
others for a consideration to provide treatment to animals as 71360  
directed by the veterinarian. 71361

(3) A person who performs a facility management, or similar 71362  
service contract for a contractee is a consumer of all tangible 71363  
personal property and services purchased for use in connection 71364  
with the performance of such contract, regardless of whether title 71365  
to any such property vests in the contractee. The purchase of such 71366  
property and services is not subject to the exception for resale 71367  
under division (E)(1) of this section. 71368

(4)(a) In the case of a person who purchases printed matter 71369  
for the purpose of distributing it or having it distributed to the 71370

public or to a designated segment of the public, free of charge, 71371  
that person is the consumer of that printed matter, and the 71372  
purchase of that printed matter for that purpose is a sale. 71373

(b) In the case of a person who produces, rather than 71374  
purchases, printed matter for the purpose of distributing it or 71375  
having it distributed to the public or to a designated segment of 71376  
the public, free of charge, that person is the consumer of all 71377  
tangible personal property and services purchased for use or 71378  
consumption in the production of that printed matter. That person 71379  
is not entitled to claim ~~exception~~ exemption under division 71380  
~~(E)(8)(B)(43)(f)~~ of ~~this~~ section 5739.02 of the Revised Code for 71381  
any material incorporated into the printed matter or any 71382  
equipment, supplies, or services primarily used to produce the 71383  
printed matter. 71384

(c) The distribution of printed matter to the public or to a 71385  
designated segment of the public, free of charge, is not a sale to 71386  
the members of the public to whom the printed matter is 71387  
distributed or to any persons who purchase space in the printed 71388  
matter for advertising or other purposes. 71389

(5) A person who makes sales of any of the services listed in 71390  
division (B)(3) of this section is the consumer of any tangible 71391  
personal property used in performing the service. The purchase of 71392  
that property is not subject to the resale exception under 71393  
division (E)(1) of this section. 71394

(E) "Retail sale" and "sales at retail" include all sales, 71395  
except those in which the purpose of the consumer is+ 71396

~~(1) To~~ to resell the thing transferred or benefit of the 71397  
service provided, by a person engaging in business, in the form in 71398  
which the same is, or is to be, received by the person+ 71399

~~(2) To incorporate the thing transferred as a material or a 71400  
part, into tangible personal property to be produced for sale by 71401~~

~~manufacturing, assembling, processing, or refining, or to use or 71402  
consume the thing transferred directly in producing a product for 71403  
sale by mining, including without limitation the extraction from 71404  
the earth of all substances that are classed geologically as 71405  
minerals, production of crude oil and natural gas, farming, 71406  
agriculture, horticulture, or floriculture, and persons engaged in 71407  
rendering farming, agricultural, horticultural, or floricultural 71408  
services, and services in the exploration for, and production of, 71409  
crude oil and natural gas, for others are deemed engaged directly 71410  
in farming, agriculture, horticulture, and floriculture, or 71411  
exploration for, and production of, crude oil and natural gas; 71412  
directly in the rendition of a public utility service, except that 71413  
the sales tax levied by section 5739.02 of the Revised Code shall 71414  
be collected upon all meals, drinks, and food for human 71415  
consumption sold upon Pullman and railroad coaches. This paragraph 71416  
does not exempt or except from "retail sale" or "sales at retail" 71417  
the sale of tangible personal property that is to be incorporated 71418  
into a structure or improvement to real property. 71419~~

~~(3) To hold the thing transferred as security for the 71420  
performance of an obligation of the vendor; 71421~~

~~(4) To use or consume the thing transferred in the process of 71422  
reclamation as required by Chapters 1513. and 1514. of the Revised 71423  
Code; 71424~~

~~(5) To resell, hold, use, or consume the thing transferred as 71425  
evidence of a contract of insurance; 71426~~

~~(6) To use or consume the thing directly in commercial 71427  
fishing; 71428~~

~~(7) To incorporate the thing transferred as a material or a 71429  
part into, or to use or consume the thing transferred directly in 71430  
the production of, magazines distributed as controlled circulation 71431  
publications; 71432~~

~~(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;~~ 71433  
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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;~~ 71438  
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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;~~ 71441  
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~~(11) To use the thing transferred as qualified research and development equipment;~~ 71447  
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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.~~ 71449  
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~~(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a~~ 71462  
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~~warranty provided as a part of the price of the tangible personal 71464  
property sold or by a vendor of a warranty, maintenance or service 71465  
contract, or similar agreement the provision of which is defined 71466  
as a sale under division (B)(7) of this section; 71467~~

~~(14) To use or consume the thing transferred in the 71468  
production of a newspaper for distribution to the public; 71469~~

~~(15) To use tangible personal property to perform a service 71470  
listed in division (B)(3) of this section, if the property is or 71471  
is to be permanently transferred to the consumer of the service as 71472  
an integral part of the performance of the service. 71473~~

~~As used in division (E) of this section, "thing" includes all 71474  
transactions included in divisions (B)(3)(a), (b), and (c) of this 71475  
section. 71476~~

~~Sales conducted through a coin-operated device that activates 71477  
vacuum equipment or equipment that dispenses water, whether or not 71478  
in combination with soap or other cleaning agents or wax, to the 71479  
consumer for the consumer's use on the premises in washing, 71480  
cleaning, or waxing a motor vehicle, provided no other personal 71481  
property or personal service is provided as part of the 71482  
transaction, are not retail sales or sales at retail. 71483~~

~~(F) "Business" includes any activity engaged in by any person 71484  
with the object of gain, benefit, or advantage, either direct or 71485  
indirect. "Business" does not include the activity of a person in 71486  
managing and investing the person's own funds. 71487~~

~~(G) "Engaging in business" means commencing, conducting, or 71488  
continuing in business, and liquidating a business when the 71489  
liquidator thereof holds itself out to the public as conducting 71490  
such business. Making a casual sale is not engaging in business. 71491~~

~~(H)(1)(a) "Price," except as provided in divisions (H)(2) and 71492  
(3) of this section, means the aggregate value in money of 71493  
anything paid or delivered, or promised to be paid or delivered, 71494~~

~~in the complete performance of a retail sale, without any 71495  
deduction on account of the cost of the property sold, cost of 71496  
materials used, labor or service cost, interest, discount paid or 71497  
allowed after the sale is consummated, or any other expense. If 71498  
the retail sale consists of the rental or lease of tangible 71499  
personal property, "price" means the aggregate value in money of 71500  
anything paid or delivered, or promised to be paid or delivered, 71501  
in the complete performance of the rental or lease, without any 71502  
deduction for tax, interest, labor or service charge, damage 71503  
liability waiver, termination or damage charge, discount paid or 71504  
allowed after the lease is consummated, or any other expense. 71505  
Except as provided in division (H)(4) of this section, the sales 71506  
tax shall be calculated and collected by the lessor on each 71507  
payment made by the lessee. "Price" does not include the 71508  
consideration received as a deposit refundable to the consumer 71509  
upon return of a beverage container, the consideration received as 71510  
a deposit on a carton or case that is used for such returnable 71511  
containers, or the consideration received as a refundable security 71512  
deposit for the use of tangible personal property to the extent 71513  
that it actually is refunded, if the consideration for such 71514  
refundable deposit is separately stated from the consideration 71515  
received or to be received for the tangible personal property 71516  
transferred in the retail sale. Such separation must appear in the 71517  
sales agreement or on the initial invoice or initial billing 71518  
rendered by the vendor to the consumer. "Price" also does not 71519  
include delivery charges that are separately stated on the initial 71520  
invoice or initial billing rendered by the vendor. Price is the 71521  
amount received inclusive of the tax, provided the vendor 71522  
establishes to the satisfaction of the tax commissioner that the 71523  
tax was added to the price. When the price includes both a charge 71524  
for tangible personal property and a charge for providing a 71525  
service and the sale of the property and the charge for the 71526  
service are separately taxable, or have a separately determinable 71527~~

~~tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.~~ 71528  
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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.~~ 71530  
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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:~~ 71541  
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~~(i) The vendor's cost of the property sold;~~ 71550

~~(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;~~ 71551  
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~~(iii) Charges by the vendor for any services necessary to complete the sale;~~ 71554  
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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~~ 71556  
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property or a service, including transportation, shipping, 71559  
postage, handling, crating, and packing. 71560

(v) Installation charges; 71561

(vi) The value of exempt tangible personal property given to 71562  
the consumer where taxable and exempt tangible personal property 71563  
have been bundled together and sold by the vendor as a single 71564  
product or piece of merchandise. 71565

(b) "Price" does not include any of the following: 71566

(i) Discounts, including cash, term, or coupons that are not 71567  
reimbursed by a third party that are allowed by a vendor and taken 71568  
by a consumer on a sale; 71569

(ii) Interest, financing, and carrying charges from credit 71570  
extended on the sale of tangible personal property or services, if 71571  
the amount is separately stated on the invoice, bill of sale, or 71572  
similar document given to the purchaser; 71573

(iii) Any taxes legally imposed directly on the consumer that 71574  
are separately stated on the invoice, bill of sale, or similar 71575  
document given to the consumer. 71576

(2) In the case of a sale of any new motor vehicle by a new 71577  
motor vehicle dealer, as defined in section 4517.01 of the Revised 71578  
Code, in which another motor vehicle is accepted by the dealer as 71579  
part of the consideration received, "price" has the same meaning 71580  
as in division (H)(1) of this section, reduced by the credit 71581  
afforded the consumer by the dealer for the motor vehicle received 71582  
in trade. 71583

(3) In the case of a sale of any watercraft or outboard motor 71584  
by a watercraft dealer licensed in accordance with section 71585  
1547.543 of the Revised Code, in which another watercraft, 71586  
watercraft and trailer, or outboard motor is accepted by the 71587  
dealer as part of the consideration received, "price" has the same 71588

meaning as in division (H)(1) of this section, reduced by the 71589  
credit afforded the consumer by the dealer for the watercraft, 71590  
watercraft and trailer, or outboard motor received in trade. As 71591  
used in this division, "watercraft" includes an outdrive unit 71592  
attached to the watercraft. 71593

~~(4) In the case of the lease of any motor vehicle designed by 71594  
the manufacturer to carry a load of not more than one ton, 71595  
watercraft, outboard motor, or aircraft, or the lease of any 71596  
tangible personal property, other than motor vehicles designed by 71597  
the manufacturer to carry a load of more than one ton, to be used 71598  
by the lessee primarily for business purposes, the sales tax shall 71599  
be collected by the vendor at the time the lease is consummated 71600  
and shall be calculated by the vendor on the basis of the total 71601  
amount to be paid by the lessee under the lease agreement. If the 71602  
total amount of the consideration for the lease includes amounts 71603  
that are not calculated at the time the lease is executed, the tax 71604  
shall be calculated and collected by the vendor at the time such 71605  
amounts are billed to the lessee. In the case of an open end 71606  
lease, the sales tax shall be calculated by the vendor on the 71607  
basis of the total amount to be paid during the initial fixed term 71608  
of the lease, and then for each subsequent renewal period as it 71609  
comes due. 71610~~

~~As used in divisions (H)(3) and (4) of this section, "motor 71611  
vehicle" has the same meaning as in section 4501.01 of the Revised 71612  
Code, and "watercraft" includes an outdrive unit attached to the 71613  
watercraft. 71614~~

In the case of a transaction in which telecommunications 71615  
service, mobile telecommunications service, or cable television 71616  
service is sold in a bundled transaction with other distinct 71617  
services for a single price that is not itemized, the entire price 71618  
is subject to the taxes levied under sections 5739.02, 5739.021, 71619  
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71620

reasonably identify the nontaxable portion from its books and 71621  
records kept in the regular course of business. Upon the request 71622  
of the consumer, the vendor shall disclose to the consumer the 71623  
selling price for the taxable services included in the selling 71624  
price for the taxable and nontaxable services billed on an 71625  
aggregated basis. The burden of proving any nontaxable charges is 71626  
on the vendor. 71627

(I) "Receipts" means the total amount of the prices of the 71628  
sales of vendors, provided that cash discounts allowed and taken 71629  
on sales at the time they are consummated are not included, minus 71630  
any amount deducted as a bad debt pursuant to section 5739.121 of 71631  
the Revised Code. "Receipts" does not include the sale price of 71632  
property returned or services rejected by consumers when the full 71633  
sale price and tax are refunded either in cash or by credit. 71634

(J) "Place of business" means any location at which a person 71635  
engages in business. 71636

(K) "Premises" includes any real property or portion thereof 71637  
upon which any person engages in selling tangible personal 71638  
property at retail or making retail sales and also includes any 71639  
real property or portion thereof designated for, or devoted to, 71640  
use in conjunction with the business engaged in by such person. 71641

(L) "Casual sale" means a sale of an item of tangible 71642  
personal property that was obtained by the person making the sale, 71643  
through purchase or otherwise, for the person's own use and was 71644  
previously subject to any state's taxing jurisdiction on its sale 71645  
or use, and includes such items acquired for the seller's use that 71646  
are sold by an auctioneer employed directly by the person for such 71647  
purpose, provided the location of such sales is not the 71648  
auctioneer's permanent place of business. As used in this 71649  
division, "permanent place of business" includes any location 71650  
where such auctioneer has conducted more than two auctions during 71651  
the year. 71652

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property ~~which~~ that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in ~~providing~~ the rendition of a public utility

service ~~as defined in this division.~~ 71685

(Q) "Refining" means removing or separating a desirable 71686  
product from raw or contaminated materials by distillation or 71687  
physical, mechanical, or chemical processes. 71688

(R) "Assembly" and "assembling" mean attaching or fitting 71689  
together parts to form a product, but do not include packaging a 71690  
product. 71691

(S) "Manufacturing operation" means a process in which 71692  
materials are changed, converted, or transformed into a different 71693  
state or form from which they previously existed and includes 71694  
refining materials, assembling parts, and preparing raw materials 71695  
and parts by mixing, measuring, blending, or otherwise committing 71696  
such materials or parts to the manufacturing process. 71697  
"Manufacturing operation" does not include packaging. 71698

(T) "Fiscal officer" means, with respect to a regional 71699  
transit authority, the secretary-treasurer thereof, and with 71700  
respect to a county that is a transit authority, the fiscal 71701  
officer of the county transit board if one is appointed pursuant 71702  
to section 306.03 of the Revised Code or the county auditor if the 71703  
board of county commissioners operates the county transit system. 71704

(U) "Transit authority" means a regional transit authority 71705  
created pursuant to section 306.31 of the Revised Code or a county 71706  
in which a county transit system is created pursuant to section 71707  
306.01 of the Revised Code. For the purposes of this chapter, a 71708  
transit authority must extend to at least the entire area of a 71709  
single county. A transit authority that includes territory in more 71710  
than one county must include all the area of the most populous 71711  
county that is a part of such transit authority. County population 71712  
shall be measured by the most recent census taken by the United 71713  
States census bureau. 71714

(V) "Legislative authority" means, with respect to a regional 71715

transit authority, the board of trustees thereof, and with respect 71716  
to a county that is a transit authority, the board of county 71717  
commissioners. 71718

(W) "Territory of the transit authority" means all of the 71719  
area included within the territorial boundaries of a transit 71720  
authority as they from time to time exist. Such territorial 71721  
boundaries must at all times include all the area of a single 71722  
county or all the area of the most populous county that is a part 71723  
of such transit authority. County population shall be measured by 71724  
the most recent census taken by the United States census bureau. 71725

(X) "Providing a service" means providing or furnishing 71726  
anything described in division (B)(3) of this section for 71727  
consideration. 71728

(Y)(1)(a) "Automatic data processing" means processing of 71729  
others' data, including keypunching or similar data entry services 71730  
together with verification thereof, or providing access to 71731  
computer equipment for the purpose of processing data. 71732

(b) "Computer services" means providing services consisting 71733  
of specifying computer hardware configurations and evaluating 71734  
technical processing characteristics, computer programming, and 71735  
training of computer programmers and operators, provided in 71736  
conjunction with and to support the sale, lease, or operation of 71737  
taxable computer equipment or systems. 71738

(c) "Electronic information services" means providing access 71739  
to computer equipment by means of telecommunications equipment for 71740  
the purpose of either of the following: 71741

(i) Examining or acquiring data stored in or accessible to 71742  
the computer equipment; 71743

(ii) Placing data into the computer equipment to be retrieved 71744  
by designated recipients with access to the computer equipment. 71745

(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 71776  
by any oral, written, graphic, or electronic medium; 71777

(j) Providing debt collection services by any oral, written, 71778  
graphic, or electronic means. 71779

The services listed in divisions (Y)(2)(a) to (j) of this 71780  
section are not automatic data processing or computer services. 71781

(Z) "Highway transportation for hire" means the 71782  
transportation of personal property belonging to others for 71783  
consideration by any of the following: 71784

(1) The holder of a permit or certificate issued by this 71785  
state or the United States authorizing the holder to engage in 71786  
transportation of personal property belonging to others for 71787  
consideration over or on highways, roadways, streets, or any 71788  
similar public thoroughfare; 71789

(2) A person who engages in the transportation of personal 71790  
property belonging to others for consideration over or on 71791  
highways, roadways, streets, or any similar public thoroughfare 71792  
but who could not have engaged in such transportation on December 71793  
11, 1985, unless the person was the holder of a permit or 71794  
certificate of the types described in division (Z)(1) of this 71795  
section; 71796

(3) A person who leases a motor vehicle to and operates it 71797  
for a person described by division (Z)(1) or (2) of this section. 71798

(AA) "Telecommunications service" means the transmission of 71799  
any interactive, two-way electromagnetic communications, including 71800  
voice, image, data, and information, through the use of any medium 71801  
such as wires, cables, microwaves, cellular radio, radio waves, 71802  
light waves, or any combination of those or similar media. 71803  
"Telecommunications service" includes message toll service even 71804  
though the vendor provides the message toll service by means of 71805  
wide area transmission type service or private communications 71806

service purchased from another telecommunications service 71807  
provider, ~~but~~ and other related fees and ancillary services, 71808  
including universal service fees, detailed billing service, 71809  
directory assistance, service initiation, voice mail service, and 71810  
vertical services, such as caller ID and three-way calling. 71811  
"Telecommunications service" does not include any of the 71812  
following: 71813

(1) Sales of incoming or outgoing wide area transmission 71814  
service or wide area transmission type service, including eight 71815  
hundred or eight-hundred-type service, but not including local 71816  
exchange service as defined in division (A) of section 4927.01 of 71817  
the Revised Code, to the person contracting for the receipt of 71818  
that service for business use; 71819

(2) Sales of private communications service to the person 71820  
contracting for the receipt of that service ~~that entitles the~~ 71821  
~~purchaser to exclusive or priority use of a communications channel~~ 71822  
~~or group of channels between exchanges;~~ As used in this division, 71823  
"private communications service" means a telecommunication service 71824  
that entitles the customer to exclusive or priority use of a 71825  
communications channel or group of channels between or among 71826  
termination points, regardless of the manner in which such channel 71827  
or channels are connected, and includes switching capacity, 71828  
extension lines, stations, and any other associated services that 71829  
are provided in connection with the use of such channel or 71830  
channels. 71831

(3) Sales of telecommunications service billed to persons 71832  
before January 1, 2004, by telephone companies subject to the 71833  
excise tax imposed by Chapter 5727. of the Revised Code; 71834

(4) Sales of telecommunications service to a provider of 71835  
telecommunications service or of mobile telecommunications 71836  
service, including access services, for use in providing 71837  
telecommunications service or mobile telecommunications service; 71838

(5) Value-added nonvoice services in which computer 71839  
processing applications are used to act on the form, content, 71840  
code, or protocol of the information to be transmitted; 71841

(6) Transmission of interactive video programming by a cable 71842  
television system as defined in section 505.90 of the Revised 71843  
Code; 71844

(7) After July 31, 2002, mobile telecommunications service. 71845

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" 71846  
means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ 71847  
articles of clothing, or other fabric items that belong to others 71848  
and ~~are used in a trade or business~~ supplying towels, linens, 71849  
articles of clothing, or other fabric items. "Laundry and dry 71850  
cleaning services" does not include the provision of self-service 71851  
facilities for use by consumers to remove soil or dirt from 71852  
towels, linens, articles of clothing, or other fabric items. 71853

(CC) "Magazines distributed as controlled circulation 71854  
publications" means magazines containing at least twenty-four 71855  
pages, at least twenty-five per cent editorial content, issued at 71856  
regular intervals four or more times a year, and circulated 71857  
without charge to the recipient, provided that such magazines are 71858  
not owned or controlled by individuals or business concerns which 71859  
conduct such publications as an auxiliary to, and essentially for 71860  
the advancement of the main business or calling of, those who own 71861  
or control them. 71862

(DD) "Landscaping and lawn care service" means the services 71863  
of planting, seeding, sodding, removing, cutting, trimming, 71864  
pruning, mulching, aerating, applying chemicals, watering, 71865  
fertilizing, and providing similar services to establish, promote, 71866  
or control the growth of trees, shrubs, flowers, grass, ground 71867  
cover, and other flora, or otherwise maintaining a lawn or 71868  
landscape grown or maintained by the owner for ornamentation or 71869

other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person

primarily to perform research and development. Tangible personal 71902  
property primarily used in testing, as defined in division (A)(4) 71903  
of section 5739.011 of the Revised Code, or used for recording or 71904  
storing test results, is not qualified research and development 71905  
equipment unless such property is primarily used by the consumer 71906  
in testing the product, equipment, or manufacturing process being 71907  
created, designed, or formulated by the consumer in the research 71908  
and development activity or in recording or storing such test 71909  
results. 71910

(II) "Building maintenance and janitorial service" means 71911  
cleaning the interior or exterior of a building and any tangible 71912  
personal property located therein or thereon, including any 71913  
services incidental to such cleaning for which no separate charge 71914  
is made. However, "building maintenance and janitorial service" 71915  
does not include the providing of such service by a person who has 71916  
less than five thousand dollars in sales of such service during 71917  
the calendar year. 71918

(JJ) "Employment service" means providing or supplying 71919  
personnel, on a temporary or long-term basis, to perform work or 71920  
labor under the supervision or control of another, when the 71921  
personnel so supplied receive their wages, salary, or other 71922  
compensation from the provider of the service. "Employment 71923  
service" does not include: 71924

(1) Acting as a contractor or subcontractor, where the 71925  
personnel performing the work are not under the direct control of 71926  
the purchaser. 71927

(2) Medical and health care services. 71928

(3) Supplying personnel to a purchaser pursuant to a contract 71929  
of at least one year between the service provider and the 71930  
purchaser that specifies that each employee covered under the 71931  
contract is assigned to the purchaser on a permanent basis. 71932

(4) Transactions between members of an affiliated group, as 71933  
defined in division (B)(3)(e) of this section. 71934

(KK) "Employment placement service" means locating or finding 71935  
employment for a person or finding or locating an employee to fill 71936  
an available position. 71937

(LL) "Exterminating service" means eradicating or attempting 71938  
to eradicate vermin infestations from a building or structure, or 71939  
the area surrounding a building or structure, and includes 71940  
activities to inspect, detect, or prevent vermin infestation of a 71941  
building or structure. 71942

(MM) "Physical fitness facility service" means all 71943  
transactions by which a membership is granted, maintained, or 71944  
renewed, including initiation fees, membership dues, renewal fees, 71945  
monthly minimum fees, and other similar fees and dues, by a 71946  
physical fitness facility such as an athletic club, health spa, or 71947  
gymnasium, which entitles the member to use the facility for 71948  
physical exercise. 71949

(NN) "Recreation and sports club service" means all 71950  
transactions by which a membership is granted, maintained, or 71951  
renewed, including initiation fees, membership dues, renewal fees, 71952  
monthly minimum fees, and other similar fees and dues, by a 71953  
recreation and sports club, which entitles the member to use the 71954  
facilities of the organization. "Recreation and sports club" means 71955  
an organization that has ownership of, or controls or leases on a 71956  
continuing, long-term basis, the facilities used by its members 71957  
and includes an aviation club, gun or shooting club, yacht club, 71958  
card club, swimming club, tennis club, golf club, country club, 71959  
riding club, amateur sports club, or similar organization. 71960

(OO) "Livestock" means farm animals commonly raised for food 71961  
or food production, and includes but is not limited to cattle, 71962  
sheep, goats, swine, and poultry. "Livestock" does not include 71963

invertebrates, fish, amphibians, reptiles, horses, domestic pets, 71964  
animals for use in laboratories or for exhibition, or other 71965  
animals not commonly raised for food or food production. 71966

(PP) "Livestock structure" means a building or structure used 71967  
exclusively for the housing, raising, feeding, or sheltering of 71968  
livestock, and includes feed storage or handling structures and 71969  
structures for livestock waste handling. 71970

(QQ) "Horticulture" means the growing, cultivation, and 71971  
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 71972  
and nursery stock. As used in this division, "nursery stock" has 71973  
the same meaning as in section 927.51 of the Revised Code. 71974

(RR) "Horticulture structure" means a building or structure 71975  
used exclusively for the commercial growing, raising, or 71976  
overwintering of horticultural products, and includes the area 71977  
used for stocking, storing, and packing horticultural products 71978  
when done in conjunction with the production of those products. 71979

(SS) "Newspaper" means an unbound publication bearing a title 71980  
or name that is regularly published, at least as frequently as 71981  
biweekly, and distributed from a fixed place of business to the 71982  
public in a specific geographic area, and that contains a 71983  
substantial amount of news matter of international, national, or 71984  
local events of interest to the general public. 71985

(TT) "Professional racing team" means a person that employs 71986  
at least twenty full-time employees for the purpose of conducting 71987  
a motor vehicle racing business for profit. The person must 71988  
conduct the business with the purpose of racing one or more motor 71989  
racing vehicles in at least ten competitive professional racing 71990  
events each year that comprise all or part of a motor racing 71991  
series sanctioned by one or more motor racing sanctioning 71992  
organizations. A "motor racing vehicle" means a vehicle for which 71993  
the chassis, engine, and parts are designed exclusively for motor 71994

racing, and does not include a stock or production model vehicle 71995  
that may be modified for use in racing. For the purposes of this 71996  
division: 71997

(1) A "competitive professional racing event" is a motor 71998  
vehicle racing event sanctioned by one or more motor racing 71999  
sanctioning organizations, at which aggregate cash prizes in 72000  
excess of eight hundred thousand dollars are awarded to the 72001  
competitors. 72002

(2) "Full-time employee" means an individual who is employed 72003  
for consideration for thirty-five or more hours a week, or who 72004  
renders any other standard of service generally accepted by custom 72005  
or specified by contract as full-time employment. 72006

~~(UU)(1) "Prepaid authorization number" means a numeric or 72007  
alphanumeric combination that represents a prepaid account that 72008  
can be used by the account holder solely to obtain 72009  
telecommunications service, and includes any renewals or increases 72010  
in the prepaid account. 72011~~

~~(2) "Prepaid telephone calling card" means a tangible item 72012  
that contains a prepaid authorization number that can be used 72013  
solely to obtain telecommunications service, and includes any 72014  
renewals or increases in the prepaid account. 72015~~

~~(VV) "Lease" or "rental" means any transfer for a 72016  
consideration of the possession or control of and right to use, 72017  
but not title to, tangible personal property for a fixed period of 72018  
time greater than thirty days or for an open ended period of time 72019  
with a minimum fixed period of more than thirty days or indefinite 72020  
term, for consideration. "Lease" or "rental" includes future 72021  
options to purchase or extend, and agreements described in 26 72022  
U.S.C. 7701(h)(1) covering motor vehicles and trailers where the 72023  
amount of consideration may be increased or decreased by reference 72024  
to the amount realized upon the sale or disposition of the 72025~~

property. "Lease" or "rental" does not include: 72026

(a) A transfer of possession or control of tangible personal 72027  
property under a security agreement or a deferred payment plan 72028  
that requires the transfer of title upon completion of the 72029  
required payments; 72030

(b) A transfer of possession or control of tangible personal 72031  
property under an agreement that requires the transfer of title 72032  
upon completion of required payments and payment of an option 72033  
price that does not exceed the greater of one hundred dollars or 72034  
one per cent of the total required payments; 72035

(c) Providing tangible personal property along with an 72036  
operator for a fixed or indefinite period of time, if the operator 72037  
is necessary for the property to perform as designed. For purposes 72038  
of this division, the operator must do more than maintain, 72039  
inspect, or set-up the tangible personal property. 72040

(2) "Lease" and "rental," as defined in division (UU) of this 72041  
section, shall not apply to leases or rentals that exist before 72042  
the effective date of this amendment. 72043

(3) "Lease" and "rental" have the same meaning as in division 72044  
(UU)(1) of this section regardless of whether a transaction is 72045  
characterized as a lease or rental under generally accepted 72046  
accounting principles, the Internal Revenue Code, Title XIII of 72047  
the Revised Code, or other federal, state, or local laws. 72048

~~(WW)~~(VV) "Mobile telecommunications service" has the same 72049  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 72050  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 72051  
amended, and includes related fees and ancillary services, 72052  
including universal service fees, detailed billing service, 72053  
directory assistance, service initiation, voice mail service, and 72054  
vertical services, such as caller ID and three-way calling. 72055

~~(XX)~~(WW) "Certified service provider" has the same meaning as 72056

in section 5740.01 of the Revised Code. 72057

(XX) "Satellite broadcasting service" means the distribution 72058  
or broadcasting of programming or services by satellite directly 72059  
to the subscriber's premises without the use of ground receiving 72060  
or distribution equipment, except at the subscriber's premises or 72061  
in the uplink process to the satellite, and includes all service 72062  
and rental charges, premium channels or other special services, 72063  
installation and repair service charges, and any other charges 72064  
having any connection with the provision of the satellite 72065  
broadcasting service. 72066

(YY) "Tangible personal property" means personal property 72067  
that can be seen, weighed, measured, felt, or touched, or that is 72068  
in any other manner perceptible to the senses. For purposes of 72069  
this chapter and Chapter 5741. of the Revised Code, "tangible 72070  
personal property" includes motor vehicles, electricity, water, 72071  
gas, steam, and prewritten computer software. 72072

(ZZ) "Direct mail" means printed material delivered or 72073  
distributed by United States mail or other delivery service to a 72074  
mass audience or to addressees on a mailing list provided by the 72075  
consumer or at the direction of the consumer when the cost of the 72076  
items are not billed directly to the recipients. "Direct mail" 72077  
includes tangible personal property supplied directly or 72078  
indirectly by the consumer to the direct mail vendor for inclusion 72079  
in the package containing the printed material. "Direct mail" does 72080  
not include multiple items of printed material delivered to a 72081  
single address. 72082

(AAA) "Computer" means an electronic device that accepts 72083  
information in digital or similar form and manipulates it for a 72084  
result based on a sequence of instructions. 72085

(BBB) "Computer software" means a set of coded instructions 72086  
designed to cause a computer or automatic data processing 72087

equipment to perform a task. 72088

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 72089  
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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. 72092  
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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 72113  
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beer; soft drinks; sodas and beverages that are ordinarily 72120  
dispensed at or in connection with bars and soda fountains, other 72121  
than coffee, tea, and cocoa; root beer and root beer extracts; 72122  
malt and malt extracts; mineral oils, cod liver oils, and halibut 72123  
liver oil; medicines, including tonics, vitamin preparations, and 72124  
other products sold primarily for their medicinal properties; and 72125  
water, including mineral, bottled, and carbonated waters, and ice. 72126

(2) On and after July 1, 2004, "food" means substances, 72127  
whether in liquid, concentrated, solid, frozen, dried, or 72128  
dehydrated form, that are sold for ingestion or chewing by humans 72129  
and are consumed for their taste or nutritional value. "Food" does 72130  
not include alcoholic beverages, dietary supplements, soft drinks, 72131  
or tobacco. 72132

(3) As used in division (EEE)(2) of this section: 72133

(a) "Alcoholic beverages" means beverages that are suitable 72134  
for human consumption and contain one-half of one per cent or more 72135  
of alcohol by volume. 72136

(b) "Dietary supplements" means any product, other than 72137  
tobacco, that is intended to supplement the diet and that is 72138  
intended for ingestion in tablet, capsule, powder, softgel, 72139  
gelcap, or liquid form, or, if not intended for ingestion in such 72140  
a form, is not represented as conventional food for use as a sole 72141  
item of a meal or of the diet; that is required to be labeled as a 72142  
dietary supplement, identifiable by the "supplement facts" box 72143  
found on the label, as required by 21 C.F.R. 101.36; and that 72144  
contains one or more of the following dietary ingredients: 72145

(i) A vitamin; 72146

(ii) A mineral; 72147

(iii) An herb or other botanical; 72148

(iv) An amino acid; 72149

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 72150  
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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. 72152  
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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. 72155  
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 72160  
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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. 72162  
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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. 72171  
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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. 72175  
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(III) "Mobility enhancing equipment" means equipment, 72180  
including repair and replacement parts for such equipment, that is 72181  
primarily and customarily used to provide or increase the ability 72182  
to move from one place to another and is appropriate for use 72183  
either in a home or a motor vehicle, that is not generally used by 72184  
persons with normal mobility, and that does not include any motor 72185  
vehicle or equipment on a motor vehicle normally provided by a 72186  
motor vehicle manufacturer. 72187

(JJJ) "Prosthetic device" means a replacement, corrective, or 72188  
supportive device, including repair and replacement parts for the 72189  
device, worn on or in the human body to artificially replace a 72190  
missing portion of the body, prevent or correct physical deformity 72191  
or malfunction, or support a weak or deformed portion of the body. 72192  
As used in this division, "prosthetic device" does not include 72193  
corrective eyeglasses, contact lenses, or dental prosthesis. 72194

(KKK)(1) "Fractional aircraft ownership program" means a 72195  
program in which persons within an affiliated group sell and 72196  
manage fractional ownership program aircraft, provided that at 72197  
least three hundred airworthy aircraft are operated in the program 72198  
and the program meets all of the following criteria: 72199

(a) Management services are provided by at least one program 72200  
manager within an affiliated group on behalf of the fractional 72201  
owners. 72202

(b) Each program aircraft is owned or possessed by at least 72203  
one fractional owner. 72204

(c) Each fractional owner owns or possesses at least a 72205  
one-sixteenth interest in at least one fixed-wing program 72206  
aircraft. 72207

(d) A dry-lease aircraft interchange arrangement is in effect 72208  
among all of the fractional owners. 72209

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 72210  
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(2) As used in division (KKK)(1) of this section: 72213

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 72214  
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section. 72216  
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 72220  
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. 72227  
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(e) "Program manager" means the person that offers management 72240

services to fractional owners pursuant to a management services 72241  
agreement under division (KKK)(1)(e) of this section. 72242

**Sec. 5739.011.** (A) As used in this section: 72243

(1) "Manufacturer" means a person who is engaged in 72244  
manufacturing, processing, assembling, or refining a product for 72245  
sale. 72246

(2) "Manufacturing facility" means a single location where a 72247  
manufacturing operation is conducted, including locations 72248  
consisting of one or more buildings or structures in a contiguous 72249  
area owned or controlled by the manufacturer. 72250

(3) "Materials handling" means the movement of the product 72251  
being or to be manufactured, during which movement the product is 72252  
not undergoing any substantial change or alteration in its state 72253  
or form. 72254

(4) "Testing" means a process or procedure to identify the 72255  
properties or assure the quality of a material or product. 72256

(5) "Completed product" means a manufactured item that is in 72257  
the form and condition as it will be sold by the manufacturer. An 72258  
item is completed when all processes that change or alter its 72259  
state or form or enhance its value are finished, even though the 72260  
item subsequently will be tested to ensure its quality or be 72261  
packaged for storage or shipment. 72262

(6) "Continuous manufacturing operation" means the process in 72263  
which raw materials or components are moved through the steps 72264  
whereby manufacturing occurs. Materials handling of raw materials 72265  
or parts from the point of receipt or preproduction storage or of 72266  
a completed product, to or from storage, to or from packaging, or 72267  
to the place from which the completed product will be shipped, is 72268  
not a part of a continuous manufacturing operation. 72269

(B) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72270

~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" 72271  
includes, but is not limited to, any of the following: 72272

(1) Production machinery and equipment that act upon the 72273  
product or machinery and equipment that treat the materials or 72274  
parts in preparation for the manufacturing operation; 72275

(2) Materials handling equipment that moves the product 72276  
through a continuous manufacturing operation; equipment that 72277  
temporarily stores the product during the manufacturing operation; 72278  
or, excluding motor vehicles licensed to operate on public 72279  
highways, equipment used in intraplant or interplant transfers of 72280  
work in process where the plant or plants between which such 72281  
transfers occur are manufacturing facilities operated by the same 72282  
person; 72283

(3) Catalysts, solvents, water, acids, oil, and similar 72284  
consumables that interact with the product and that are an 72285  
integral part of the manufacturing operation; 72286

(4) Machinery, equipment, and other tangible personal 72287  
property used during the manufacturing operation that control, 72288  
physically support, produce power for, lubricate, or are otherwise 72289  
necessary for the functioning of production machinery and 72290  
equipment and the continuation of the manufacturing operation; 72291

(5) Machinery, equipment, fuel, power, material, parts, and 72292  
other tangible personal property used to manufacture machinery, 72293  
equipment, or other tangible personal property used in 72294  
manufacturing a product for sale; 72295

(6) Machinery, equipment, and other tangible personal 72296  
property used by a manufacturer to test raw materials, the product 72297  
being manufactured, or the completed product; 72298

(7) Machinery and equipment used to handle or temporarily 72299  
store scrap that is intended to be reused in the manufacturing 72300  
operation at the same manufacturing facility; 72301

(8) Coke, gas, water, steam, and similar substances used in 72302  
the manufacturing operation; machinery and equipment used for, and 72303  
fuel consumed in, producing or extracting those substances; 72304  
machinery, equipment, and other tangible personal property used to 72305  
treat, filter, pump, or otherwise make the substance suitable for 72306  
use in the manufacturing operation; and machinery and equipment 72307  
used for, and fuel consumed in, producing electricity for use in 72308  
the manufacturing operation; 72309

(9) Machinery, equipment, and other tangible personal 72310  
property used to transport or transmit electricity, coke, gas, 72311  
water, steam, or similar substances used in the manufacturing 72312  
operation from the point of generation, if produced by the 72313  
manufacturer, or from the point where the substance enters the 72314  
manufacturing facility, if purchased by the manufacturer, to the 72315  
manufacturing operation; 72316

(10) Machinery, equipment, and other tangible personal 72317  
property that treats, filters, cools, refines, or otherwise 72318  
renders water, steam, acid, oil, solvents, or similar substances 72319  
used in the manufacturing operation reusable, provided that the 72320  
substances are intended for reuse and not for disposal, sale, or 72321  
transportation from the manufacturing facility; 72322

(11) Parts, components, and repair and installation services 72323  
for items described in division (B) of this section. 72324

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section 72325  
~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does 72326  
not include any of the following: 72327

(1) Tangible personal property used in administrative, 72328  
personnel, security, inventory control, record-keeping, ordering, 72329  
billing, or similar functions; 72330

(2) Tangible personal property used in storing raw materials 72331  
or parts prior to the commencement of the manufacturing operation 72332

or used to handle or store a completed product, including storage 72333  
that actively maintains a completed product in a marketable state 72334  
or form; 72335

(3) Tangible personal property used to handle or store scrap 72336  
or waste intended for disposal, sale, or other disposition, other 72337  
than reuse in the manufacturing operation at the same 72338  
manufacturing facility; 72339

(4) Tangible personal property that is or is to be 72340  
incorporated into realty; 72341

(5) Machinery, equipment, and other tangible personal 72342  
property used for ventilation, dust or gas collection, humidity or 72343  
temperature regulation, or similar environmental control, except 72344  
machinery, equipment, and other tangible personal property that 72345  
totally regulates the environment in a special and limited area of 72346  
the manufacturing facility where the regulation is essential for 72347  
production to occur; 72348

(6) Tangible personal property used for the protection and 72349  
safety of workers, unless the property is attached to or 72350  
incorporated into machinery and equipment used in a continuous 72351  
manufacturing operation; 72352

(7) Tangible personal property used to store fuel, water, 72353  
solvents, acid, oil, or similar items consumed in the 72354  
manufacturing operation; 72355

(8) Machinery, equipment, and other tangible personal 72356  
property used to clean, repair, or maintain real or personal 72357  
property in the manufacturing facility; 72358

(9) Motor vehicles registered for operation on public 72359  
highways. 72360

(D) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72361  
~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is 72362

a machine used by a manufacturer in both a taxable and an exempt 72363  
manner, it shall be totally taxable or totally exempt from 72364  
taxation based upon its quantified primary use. If the "things 72365  
transferred" are fungibles, they shall be taxed based upon the 72366  
proportion of the fungibles used in a taxable manner. 72367

**Sec. 5739.012.** (A) As used in this section: 72368

(1) "Sham transaction" means a transaction or series of 72369  
transactions without economic substance because there is no 72370  
business purpose or expectation of profit other than obtaining tax 72371  
benefits. 72372

(2) "Tax" includes only those taxes levied by or pursuant to 72373  
Chapter 5739. of the Revised Code that are required to be 72374  
calculated and collected as prescribed by division ~~(H)(4)(A)(2)~~ of 72375  
section ~~5739.01~~ 5739.02 of the Revised Code. 72376

(3) "Taxpayer" includes any person required to pay or to 72377  
collect and remit tax. 72378

(B)(1) The tax commissioner may disregard any sham 72379  
transaction and ascertain a taxpayer's liability for tax without 72380  
the sham transaction. 72381

(2) A lease with a renewal clause and a termination penalty 72382  
or similar provision that applies if the renewal clause is not 72383  
exercised is presumed to be a sham transaction. In such a case, 72384  
the tax shall be calculated and paid on the basis of the entire 72385  
length of the lease period, including any renewal periods, until 72386  
the termination penalty or similar provision no longer applies. 72387  
The taxpayer shall bear the burden of establishing, by a 72388  
preponderance of the evidence, that the transaction or series of 72389  
transactions is not a sham transaction. 72390

(C) The tax commissioner may prescribe rules to administer 72391  
this section. 72392

Sec. 5739.02. For the purpose of providing revenue with which 72393  
to meet the needs of the state, for the use of the general revenue 72394  
fund of the state, for the purpose of securing a thorough and 72395  
efficient system of common schools throughout the state, for the 72396  
purpose of affording revenues, in addition to those from general 72397  
property taxes, permitted under constitutional limitations, and 72398  
from other sources, for the support of local governmental 72399  
functions, and for the purpose of reimbursing the state for the 72400  
expense of administering this chapter, an excise tax is hereby 72401  
levied on each retail sale made in this state. 72402

(A)(1) ~~The tax shall be collected pursuant to the schedules~~ 72403  
~~as provided in section 5739.025 of the Revised Code, provided that~~ 72404  
~~on and after July 1, 2003, and on or before June 30, 2005, the~~ 72405  
~~rate of tax shall be six per cent. On and after July 1, 2005, the~~ 72406  
~~rate of the tax shall be five per cent. The~~ 72407

~~The tax applies and is collectible when the sale is made,~~ 72408  
~~regardless of the time when the price is paid or delivered.~~ 72409

~~In (2) In the case of the lease or rental, with a fixed term~~ 72410  
~~of more than thirty days or an indefinite term with a minimum~~ 72411  
~~period of more than thirty days, of any motor vehicles designed by~~ 72412  
~~the manufacturer to carry a load of not more than one ton,~~ 72413  
~~watercraft, outboard motor, or aircraft, or of any tangible~~ 72414  
~~personal property, other than motor vehicles designed by the~~ 72415  
~~manufacturer to carry a load of more than one ton, to be used by~~ 72416  
~~the lessee or renter primarily for business purposes, the tax~~ 72417  
~~shall be collected by the vendor at the time the lease or rental~~ 72418  
~~is consummated and shall be calculated by the vendor on the basis~~ 72419  
~~of the total amount to be paid by the lessee or renter under the~~ 72420  
~~lease agreement. If the total amount of the consideration for the~~ 72421  
~~lease or rental includes amounts that are not calculated at the~~ 72422  
~~time the lease or rental is executed, the tax shall be calculated~~ 72423

and collected by the vendor at the time such amounts are billed to 72424  
the lessee or renter. In the case of an open-end lease or rental, 72425  
the tax shall be calculated by the vendor on the basis of the 72426  
total amount to be paid during the initial fixed term of the lease 72427  
or rental, and for each subsequent renewal period as it comes due. 72428  
As used in this division, "motor vehicle" has the same meaning as 72429  
in section 4501.01 of the Revised Code, and "watercraft" includes 72430  
an outdrive unit attached to the watercraft. 72431

(3) Except as provided in division (A)(2) of this section, in 72432  
the case of a sale, the price of which consists in whole or in 72433  
part of ~~rentals for the use of the thing transferred~~ the lease or 72434  
rental of tangible personal property, the tax, ~~as regards those~~ 72435  
~~rentals,~~ shall be measured by the installments of ~~those rentals~~ 72436  
that lease or rental. 72437

(4) In the case of a sale of a physical fitness facility 72438  
service or recreation and sports club service defined under 72439  
~~division (MM) or (NN) of section 5739.01 of the Revised Code,~~ the 72440  
price of which consists in whole or in part of a membership for 72441  
the receipt of the benefit of the service, the tax applicable to 72442  
the sale shall be measured by the installments thereof. 72443

(B) The tax does not apply to the following: 72444

(1) Sales to the state or any of its political subdivisions, 72445  
or to any other state or its political subdivisions if the laws of 72446  
that state exempt from taxation sales made to this state and its 72447  
political subdivisions; 72448

(2) Sales of food for human consumption off the premises 72449  
where sold; 72450

(3) Sales of food sold to students only in a cafeteria, 72451  
dormitory, fraternity, or sorority maintained in a private, 72452  
public, or parochial school, college, or university; 72453

(4) Sales of newspapers and of magazine subscriptions and 72454

sales or transfers of magazines distributed as controlled 72455  
circulation publications; 72456

(5) The furnishing, preparing, or serving of meals without 72457  
charge by an employer to an employee provided the employer records 72458  
the meals as part compensation for services performed or work 72459  
done; 72460

(6) Sales of motor fuel upon receipt, use, distribution, or 72461  
sale of which in this state a tax is imposed by the law of this 72462  
state, but this exemption shall not apply to the sale of motor 72463  
fuel on which a refund of the tax is allowable under division (A) 72464  
of section 5735.14 of the Revised Code; and the tax commissioner 72465  
may deduct the amount of tax levied by this section applicable to 72466  
the price of motor fuel when granting a refund of motor fuel tax 72467  
pursuant to division (A) of section 5735.14 of the Revised Code 72468  
and shall cause the amount deducted to be paid into the general 72469  
revenue fund of this state; 72470

(7) Sales of natural gas by a natural gas company, of water 72471  
by a water-works company, or of steam by a heating company, if in 72472  
each case the thing sold is delivered to consumers through pipes 72473  
or conduits, and all sales of communications services by a 72474  
~~telephone or~~ telegraph company, all terms as defined in section 72475  
5727.01 of the Revised Code, and sales of electricity delivered 72476  
through wires; 72477

(8) Casual sales by a person, or auctioneer employed directly 72478  
by the person to conduct such sales, except as to such sales of 72479  
motor vehicles, watercraft or outboard motors required to be 72480  
titled under section 1548.06 of the Revised Code, watercraft 72481  
documented with the United States coast guard, snowmobiles, and 72482  
all-purpose vehicles as defined in section 4519.01 of the Revised 72483  
Code; 72484

(9) Sales of services or tangible personal property, other 72485

than motor vehicles, mobile homes, and manufactured homes, by 72486  
churches, organizations exempt from taxation under section 72487  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72488  
organizations operated exclusively for charitable purposes as 72489  
defined in division (B)(12) of this section, provided that the 72490  
number of days on which such tangible personal property or 72491  
services, other than items never subject to the tax, are sold does 72492  
not exceed six in any calendar year. If the number of days on 72493  
which such sales are made exceeds six in any calendar year, the 72494  
church or organization shall be considered to be engaged in 72495  
business and all subsequent sales by it shall be subject to the 72496  
tax. In counting the number of days, all sales by groups within a 72497  
church or within an organization shall be considered to be sales 72498  
of that church or organization, except that sales made by separate 72499  
student clubs and other groups of students of a primary or 72500  
secondary school, and sales made by a parent-teacher association, 72501  
booster group, or similar organization that raises money to 72502  
support or fund curricular or extracurricular activities of a 72503  
primary or secondary school, shall not be considered to be sales 72504  
of such school, and sales by each such club, group, association, 72505  
or organization shall be counted separately for purposes of the 72506  
six-day limitation. This division does not apply to sales by a 72507  
noncommercial educational radio or television broadcasting 72508  
station. 72509

(10) Sales not within the taxing power of this state under 72510  
the Constitution of the United States; 72511

(11) The Except for transactions that are sales under 72512  
division (B)(3)(s) of section 5739.01 of the Revised Code, the 72513  
transportation of persons or property, unless the transportation 72514  
is by a private investigation and security service; 72515

(12) Sales of tangible personal property or services to 72516  
churches, to organizations exempt from taxation under section 72517

501(c)(3) of the Internal Revenue Code of 1986, and to any other 72518  
nonprofit organizations operated exclusively for charitable 72519  
purposes in this state, no part of the net income of which inures 72520  
to the benefit of any private shareholder or individual, and no 72521  
substantial part of the activities of which consists of carrying 72522  
on propaganda or otherwise attempting to influence legislation; 72523  
sales to offices administering one or more homes for the aged or 72524  
one or more hospital facilities exempt under section 140.08 of the 72525  
Revised Code; and sales to organizations described in division (D) 72526  
of section 5709.12 of the Revised Code. 72527

"Charitable purposes" means the relief of poverty; the 72528  
improvement of health through the alleviation of illness, disease, 72529  
or injury; the operation of an organization exclusively for the 72530  
provision of professional, laundry, printing, and purchasing 72531  
services to hospitals or charitable institutions; the operation of 72532  
a home for the aged, as defined in section 5701.13 of the Revised 72533  
Code; the operation of a radio or television broadcasting station 72534  
that is licensed by the federal communications commission as a 72535  
noncommercial educational radio or television station; the 72536  
operation of a nonprofit animal adoption service or a county 72537  
humane society; the promotion of education by an institution of 72538  
learning that maintains a faculty of qualified instructors, 72539  
teaches regular continuous courses of study, and confers a 72540  
recognized diploma upon completion of a specific curriculum; the 72541  
operation of a parent-teacher association, booster group, or 72542  
similar organization primarily engaged in the promotion and 72543  
support of the curricular or extracurricular activities of a 72544  
primary or secondary school; the operation of a community or area 72545  
center in which presentations in music, dramatics, the arts, and 72546  
related fields are made in order to foster public interest and 72547  
education therein; the production of performances in music, 72548  
dramatics, and the arts; or the promotion of education by an 72549  
organization engaged in carrying on research in, or the 72550

dissemination of, scientific and technological knowledge and 72551  
information primarily for the public. 72552

Nothing in this division shall be deemed to exempt sales to 72553  
any organization for use in the operation or carrying on of a 72554  
trade or business, or sales to a home for the aged for use in the 72555  
operation of independent living facilities as defined in division 72556  
(A) of section 5709.12 of the Revised Code. 72557

(13) Building and construction materials and services sold to 72558  
construction contractors for incorporation into a structure or 72559  
improvement to real property under a construction contract with 72560  
this state or a political subdivision of this state, or with the 72561  
United States government or any of its agencies; building and 72562  
construction materials and services sold to construction 72563  
contractors for incorporation into a structure or improvement to 72564  
real property that are accepted for ownership by this state or any 72565  
of its political subdivisions, or by the United States government 72566  
or any of its agencies at the time of completion of the structures 72567  
or improvements; building and construction materials sold to 72568  
construction contractors for incorporation into a horticulture 72569  
structure or livestock structure for a person engaged in the 72570  
business of horticulture or producing livestock; building 72571  
materials and services sold to a construction contractor for 72572  
incorporation into a house of public worship or religious 72573  
education, or a building used exclusively for charitable purposes 72574  
under a construction contract with an organization whose purpose 72575  
is as described in division (B)(12) of this section; building 72576  
materials and services sold to a construction contractor for 72577  
incorporation into a building under a construction contract with 72578  
an organization exempt from taxation under section 501(c)(3) of 72579  
the Internal Revenue Code of 1986 when the building is to be used 72580  
exclusively for the organization's exempt purposes; building and 72581  
construction materials sold for incorporation into the original 72582

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 72647  
perambulation; and items of tangible personal property used to 72648  
supplement impaired functions of the human body such as 72649  
respiration, hearing, or elimination; 72650~~

~~(b) Sales of wheelchairs; items incorporated into or used in 72651  
conjunction with a motor vehicle for the purpose of transporting 72652  
wheelchairs, other than transportation conducted in connection 72653  
with the sale or delivery of wheelchairs; and items incorporated 72654  
into or used in conjunction with a motor vehicle that are 72655  
specifically designed to assist a person with a disability to 72656  
access or operate the motor vehicle. As used in this division, 72657  
"person with a disability" means any person who has lost the use 72658  
of one or both legs or one or both arms, who is blind, deaf, or 72659  
disabled to the extent that the person is unable to move about 72660  
without the aid of crutches or a wheelchair, or whose mobility is 72661  
restricted by a permanent cardiovascular, pulmonary, or other 72662  
disabling condition. 72663~~

~~(c) No exemption under this division shall be allowed for 72664  
nonprescription drugs, medicines, or remedies; items or devices 72665  
used to supplement vision; items or devices whose function is 72666  
solely or primarily cosmetic; or physical fitness equipment. This 72667  
division does not apply to sales to a physician or medical 72668  
facility for use in the treatment of a patient, durable medical 72669  
equipment for home use, or mobility enhancing equipment, when made 72670  
pursuant to a prescription and when such devices or equipment are 72671  
for use by a human being. 72672~~

(20) Sales of emergency and fire protection vehicles and 72673  
equipment to nonprofit organizations for use solely in providing 72674  
fire protection and emergency services, including trauma care and 72675  
emergency medical services, for political subdivisions of the 72676  
state; 72677

(21) Sales of tangible personal property manufactured in this 72678

state, if sold by the manufacturer in this state to a retailer for 72679  
use in the retail business of the retailer outside of this state 72680  
and if possession is taken from the manufacturer by the purchaser 72681  
within this state for the sole purpose of immediately removing the 72682  
same from this state in a vehicle owned by the purchaser; 72683

(22) Sales of services provided by the state or any of its 72684  
political subdivisions, agencies, instrumentalities, institutions, 72685  
or authorities, or by governmental entities of the state or any of 72686  
its political subdivisions, agencies, instrumentalities, 72687  
institutions, or authorities; 72688

(23) Sales of motor vehicles to nonresidents of this state 72689  
upon the presentation of an affidavit executed in this state by 72690  
the nonresident purchaser affirming that the purchaser is a 72691  
nonresident of this state, that possession of the motor vehicle is 72692  
taken in this state for the sole purpose of immediately removing 72693  
it from this state, that the motor vehicle will be permanently 72694  
titled and registered in another state, and that the motor vehicle 72695  
will not be used in this state; 72696

(24) Sales to persons engaged in the preparation of eggs for 72697  
sale of tangible personal property used or consumed directly in 72698  
such preparation, including such tangible personal property used 72699  
for cleaning, sanitizing, preserving, grading, sorting, and 72700  
classifying by size; packages, including material and parts for 72701  
packages, and machinery, equipment, and material for use in 72702  
packaging eggs for sale; and handling and transportation equipment 72703  
and parts therefor, except motor vehicles licensed to operate on 72704  
public highways, used in intraplant or interplant transfers or 72705  
shipment of eggs in the process of preparation for sale, when the 72706  
plant or plants within or between which such transfers or 72707  
shipments occur are operated by the same person. "Packages" 72708  
includes containers, cases, baskets, flats, fillers, filler flats, 72709  
cartons, closure materials, labels, and labeling materials, and 72710

"packaging" means placing therein.	72711
(25)(a) Sales of water to a consumer for residential use,	72712
except the sale of bottled water, distilled water, mineral water,	72713
carbonated water, or ice;	72714
(b) Sales of water by a nonprofit corporation engaged	72715
exclusively in the treatment, distribution, and sale of water to	72716
consumers, if such water is delivered to consumers through pipes	72717
or tubing.	72718
(26) Fees charged for inspection or reinspection of motor	72719
vehicles under section 3704.14 of the Revised Code;	72720
(27) Sales to persons licensed to conduct a food service	72721
operation pursuant to section 3717.43 of the Revised Code, of	72722
tangible personal property primarily used directly for the	72723
following:	72724
(a) To prepare food for human consumption for sale;	72725
(b) To preserve food that has been or will be prepared for	72726
human consumption for sale by the food service operator, not	72727
including tangible personal property used to display food for	72728
selection by the consumer;	72729
(c) To clean tangible personal property used to prepare or	72730
serve food for human consumption for sale.	72731
(28) Sales of animals by nonprofit animal adoption services	72732
or county humane societies;	72733
(29) Sales of services to a corporation described in division	72734
(A) of section 5709.72 of the Revised Code, and sales of tangible	72735
personal property that qualifies for exemption from taxation under	72736
section 5709.72 of the Revised Code;	72737
(30) Sales and installation of agricultural land tile, as	72738
defined in division (B)(5)(a) of section 5739.01 of the Revised	72739
Code;	72740

(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; 72741  
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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; 72744  
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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; 72748  
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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. 72753  
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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, 72769  
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including, but not limited to, gold, silver, platinum, and 72772  
palladium, and which is in such state or condition that its value 72773  
depends upon its content and not upon its form. "Investment metal 72774  
bullion" does not include fabricated precious metal that has been 72775  
processed or manufactured for one or more specific and customary 72776  
industrial, professional, or artistic uses. "Investment coins" 72777  
means numismatic coins or other forms of money and legal tender 72778  
manufactured of gold, silver, platinum, palladium, or other metal 72779  
under the laws of the United States or any foreign nation with a 72780  
fair market value greater than any statutory or nominal value of 72781  
such coins. 72782

(36)(a) Sales where the purpose of the consumer is to use or 72783  
consume the things transferred in making retail sales and 72784  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72785  
certificates, or other advertising material that prices and 72786  
describes tangible personal property offered for retail sale. 72787

(b) Sales to direct marketing vendors of preliminary 72788  
materials such as photographs, artwork, and typesetting that will 72789  
be used in printing advertising material; of printed matter that 72790  
offers free merchandise or chances to win sweepstake prizes and 72791  
that is mailed to potential customers with advertising material 72792  
described in division (B)(36)(a) of this section; and of equipment 72793  
such as telephones, computers, facsimile machines, and similar 72794  
tangible personal property primarily used to accept orders for 72795  
direct marketing retail sales. 72796

(c) Sales of automatic food vending machines that preserve 72797  
food with a shelf life of forty-five days or less by refrigeration 72798  
and dispense it to the consumer. 72799

For purposes of division (B)(36) of this section, "direct 72800  
marketing" means the method of selling where consumers order 72801  
tangible personal property by United States mail, delivery 72802  
service, or telecommunication and the vendor delivers or ships the 72803

tangible personal property sold to the consumer from a warehouse, 72804  
catalogue distribution center, or similar fulfillment facility by 72805  
means of the United States mail, delivery service, or common 72806  
carrier. 72807

(37) Sales to a person engaged in the business of 72808  
horticulture or producing livestock of materials to be 72809  
incorporated into a horticulture structure or livestock structure; 72810

~~(38) The sale of a motor vehicle that is used exclusively for 72811  
a vanpool ridesharing arrangement to persons participating in the 72812  
vanpool ridesharing arrangement when the vendor is selling the 72813  
vehicle pursuant to a contract between the vendor and the 72814  
department of transportation; 72815~~

~~(39)~~ Sales of personal computers, computer monitors, computer 72816  
keyboards, modems, and other peripheral computer equipment to an 72817  
individual who is licensed or certified to teach in an elementary 72818  
or a secondary school in this state for use by that individual in 72819  
preparation for teaching elementary or secondary school students; 72820

~~(40)~~(39) Sales to a professional racing team of any of the 72821  
following: 72822

(a) Motor racing vehicles; 72823

(b) Repair services for motor racing vehicles; 72824

(c) Items of property that are attached to or incorporated in 72825  
motor racing vehicles, including engines, chassis, and all other 72826  
components of the vehicles, and all spare, replacement, and 72827  
rebuilt parts or components of the vehicles; except not including 72828  
tires, consumable fluids, paint, and accessories consisting of 72829  
instrumentation sensors and related items added to the vehicle to 72830  
collect and transmit data by means of telemetry and other forms of 72831  
communication. 72832

~~(41)~~(40) Sales of used manufactured homes and used mobile 72833

homes, as defined in section 5739.0210 of the Revised Code, made 72834  
on or after January 1, 2000; 72835

~~(42)~~(41) Sales of tangible personal property and services to 72836  
a provider of electricity used or consumed directly and primarily 72837  
in generating, transmitting, or distributing electricity for use 72838  
by others, including property that is or is to be incorporated 72839  
into and will become a part of the consumer's production, 72840  
transmission, or distribution system and that retains its 72841  
classification as tangible personal property after incorporation; 72842  
fuel or power used in the production, transmission, or 72843  
distribution of electricity; and tangible personal property and 72844  
services used in the repair and maintenance of the production, 72845  
transmission, or distribution system, including only those motor 72846  
vehicles as are specially designed and equipped for such use. The 72847  
exemption provided in this division shall be in lieu of all other 72848  
~~exceptions~~ exemptions in division ~~(E)(2)~~(B)(43)(a) of this section 72849  
~~5739.01 of the Revised Code~~ to which a provider of electricity may 72850  
otherwise be entitled based on the use of the tangible personal 72851  
property or service purchased in generating, transmitting, or 72852  
distributing electricity. 72853

(42) Sales to a person providing services under division 72854  
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 72855  
personal property and services used directly and primarily in 72856  
providing taxable services under that section. 72857

(43) Sales where the purpose of the purchaser is to do any of 72858  
the following: 72859

(a) To incorporate the thing transferred as a material or a 72860  
part into tangible personal property to be produced for sale by 72861  
manufacturing, assembling, processing, or refining; or to use or 72862  
consume the thing transferred directly in producing tangible 72863  
personal property for sale by mining, including, without 72864  
limitation, the extraction from the earth of all substances that 72865

are classed geologically as minerals, production of crude oil and 72866  
natural gas, farming, agriculture, horticulture, or floriculture, 72867  
or directly in the rendition of a public utility service, except 72868  
that the sales tax levied by this section shall be collected upon 72869  
all meals, drinks, and food for human consumption sold when 72870  
transporting persons. Persons engaged in rendering farming, 72871  
agricultural, horticultural, or floricultural services, and 72872  
services in the exploration for, and production of, crude oil and 72873  
natural gas, for others are deemed engaged directly in farming, 72874  
agriculture, horticulture, and floriculture, or exploration for, 72875  
and production of, crude oil and natural gas. This paragraph does 72876  
not exempt from "retail sale" or "sales at retail" the sale of 72877  
tangible personal property that is to be incorporated into a 72878  
structure or improvement to real property. 72879

(b) To hold the thing transferred as security for the 72880  
performance of an obligation of the vendor; 72881

(c) To resell, hold, use, or consume the thing transferred as 72882  
evidence of a contract of insurance; 72883

(d) To use or consume the thing directly in commercial 72884  
fishing; 72885

(e) To incorporate the thing transferred as a material or a 72886  
part into, or to use or consume the thing transferred directly in 72887  
the production of, magazines distributed as controlled circulation 72888  
publications; 72889

(f) To use or consume the thing transferred in the production 72890  
and preparation in suitable condition for market and sale of 72891  
printed, imprinted, overprinted, lithographic, multilithic, 72892  
blueprinted, photostatic, or other productions or reproductions of 72893  
written or graphic matter; 72894

(g) To use the thing transferred, as described in section 72895  
5739.011 of the Revised Code, primarily in a manufacturing 72896

<u>operation to produce tangible personal property for sale;</u>	72897
<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>	72898 72899 72900 72901 72902 72903
<u>(i) To use the thing transferred as qualified research and development equipment;</u>	72904 72905
<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>	72906 72907 72908 72909 72910 72911 72912 72913 72914 72915 72916 72917 72918
<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>	72919 72920 72921 72922 72923 72924 72925
<u>(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;</u>	72926 72927

(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. 72928  
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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. 72933  
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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. 72936  
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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. 72943  
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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. 72949  
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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~~ 72953  
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~~substitutes, tea, and cocoa and cocoa products. It does not~~ 72959  
~~include: spirituous liquors, wine, mixed beverages, or beer; soft~~ 72960  
~~drinks; sodas and beverages that are ordinarily dispensed at or in~~ 72961  
~~connection with bars and soda fountains, other than coffee, tea,~~ 72962  
~~and cocoa; root beer and root beer extracts; malt and malt~~ 72963  
~~extracts; mineral oils, cod liver oils, and halibut liver oil;~~ 72964  
~~medicines, including tonics, vitamin preparations, and other~~ 72965  
~~products sold primarily for their medicinal properties; and water,~~ 72966  
~~including mineral, bottled, and carbonated waters, and ice.~~ 72967

~~(C)(D)~~ The levy of this tax on retail sales of recreation and 72968  
sports club service shall not prevent a municipal corporation from 72969  
levying any tax on recreation and sports club dues or on any 72970  
income generated by recreation and sports club dues. 72971

(E) The tax collected by the vendor from the consumer under 72972  
this chapter is not part of the price, but is a tax collection for 72973  
the benefit of the state, and of counties levying an additional 72974  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72975  
Code and of transit authorities levying an additional sales tax 72976  
pursuant to section 5739.023 of the Revised Code. Except for the 72977  
discount authorized under section 5739.12 of the Revised Code and 72978  
the effects of any rounding pursuant to section 5703.055 of the 72979  
Revised Code, no person other than the state or such a county or 72980  
transit authority shall derive any benefit from the collection or 72981  
payment of the tax levied by this section or section 5739.021, 72982  
5739.023, or 5739.026 of the Revised Code. 72983

**Sec. 5739.021.** (A) For the purpose of providing additional 72984  
general revenues for the county or supporting criminal and 72985  
administrative justice services in the county, or both, and to pay 72986  
the expenses of administering such levy, any county may levy a tax 72987  
at the rate of not more than one per cent at any multiple of 72988  
one-fourth of one per cent upon every retail sale made in the 72989

county, except sales of watercraft and outboard motors required to 72990  
be titled pursuant to Chapter 1548. of the Revised Code and sales 72991  
of motor vehicles, and may increase the rate of an existing tax to 72992  
not more than one per cent at any multiple of one-fourth of one 72993  
per cent. 72994

The tax shall be levied and the rate increased pursuant to a 72995  
resolution of the board of county commissioners. The resolution 72996  
shall state the purpose for which the tax is to be levied and the 72997  
number of years for which the tax is to be levied, or that it is 72998  
for a continuing period of time. If the tax is to be levied for 72999  
the purpose of providing additional general revenues and for the 73000  
purpose of supporting criminal and administrative justice 73001  
services, the resolution shall state the rate or amount of the tax 73002  
to be apportioned to each such purpose. The rate or amount may be 73003  
different for each year the tax is to be levied, but the rates or 73004  
amounts actually apportioned each year shall not be different from 73005  
that stated in the resolution for that year. If the resolution is 73006  
adopted as an emergency measure necessary for the immediate 73007  
preservation of the public peace, health, or safety, it must 73008  
receive an affirmative vote of all of the members of the board of 73009  
county commissioners and shall state the reasons for such 73010  
necessity. A The board shall deliver a certified copy of the 73011  
resolution shall be delivered to the tax commissioner either 73012  
personally or by certified mail, not later than the sixtieth 73013  
sixty-fifth day prior to the date on which the tax is to become 73014  
effective, which shall be the first day of the calendar quarter. 73015

Prior to the adoption of any resolution under this section, 73016  
the board of county commissioners shall conduct two public 73017  
hearings on the resolution, the second hearing to be not less than 73018  
three nor more than ten days after the first. Notice of the date, 73019  
time, and place of the hearings shall be given by publication in a 73020  
newspaper of general circulation in the county once a week on the 73021

same day of the week for two consecutive weeks, the second 73022  
publication being not less than ten nor more than thirty days 73023  
prior to the first hearing. 73024

Except as provided in division (B)(3) of this section, the 73025  
resolution shall ~~become effective on the first day of a calendar~~ 73026  
~~quarter following the expiration of sixty days from the date of~~ 73027  
~~its adoption,~~ be subject to a referendum as provided in sections 73028  
305.31 to 305.41 of the Revised Code. 73029

If a petition for a referendum is filed, the county auditor 73030  
with whom the petition was filed shall, within five days, notify 73031  
the board of county commissioners and the tax commissioner of the 73032  
filing of the petition by certified mail. If the board of 73033  
elections with which the petition was filed declares the petition 73034  
invalid, the board of elections, within five days, shall notify 73035  
the board of county commissioners and the tax commissioner of that 73036  
declaration by certified mail. If the petition is declared to be 73037  
invalid, the effective date of the tax or increased rate of tax 73038  
levied by this section shall be the first day of a calendar 73039  
quarter following the expiration of sixty-five days from the date 73040  
the ~~petition was declared invalid by~~ commissioner receives notice 73041  
from the board of elections that the petition is invalid. 73042

(B)(1) A resolution that is not adopted as an emergency 73043  
measure may direct the board of elections to submit the question 73044  
of levying the tax or increasing the rate of tax to the electors 73045  
of the county at a special election held on the date specified by 73046  
the board of county commissioners in the resolution, provided that 73047  
the election occurs not less than seventy-five days after a 73048  
certified copy of such resolution is transmitted to the board of 73049  
elections and the election is not held in February or August of 73050  
any year. Upon transmission of the resolution to the board of 73051  
elections, the board of county commissioners shall notify the tax 73052  
commissioner in writing of the levy question to be submitted to 73053

the electors. No resolution adopted under this division shall go 73054  
into effect unless approved by a majority of those voting upon it, 73055  
and, except as provided in division (B)(3) of this section, shall 73056  
become effective on the first day of a calendar quarter following 73057  
the expiration of sixty-five days from the date ~~of notice to~~ the 73058  
tax commissioner ~~by~~ receives notice from the board of elections of 73059  
the affirmative vote. 73060

(2) A resolution that is adopted as an emergency measure 73061  
shall go into effect as provided in division (A) of this section, 73062  
but may direct the board of elections to submit the question of 73063  
repealing the tax or increase in the rate of the tax to the 73064  
electors of the county at the next general election in the county 73065  
occurring not less than seventy-five days after a certified copy 73066  
of the resolution is transmitted to the board of elections. Upon 73067  
transmission of the resolution to the board of elections, the 73068  
board of county commissioners shall notify the tax commissioner in 73069  
writing of the levy question to be submitted to the electors. The 73070  
ballot question shall be the same as that prescribed in section 73071  
5739.022 of the Revised Code. The board of elections shall notify 73072  
the board of county commissioners and the tax commissioner of the 73073  
result of the election immediately after the result has been 73074  
declared. If a majority of the qualified electors voting on the 73075  
question of repealing the tax or increase in the rate of the tax 73076  
vote for repeal of the tax or repeal of the increase, the board of 73077  
county commissioners, on the first day of a calendar quarter 73078  
following the expiration of sixty-five days after the date ~~it~~ 73079  
~~received~~ the board and tax commissioner receive notice of the 73080  
result of the election, shall, in the case of a repeal of the tax, 73081  
cease to levy the tax, or, in the case of a repeal of an increase 73082  
in the rate of the tax, cease to levy the increased rate and levy 73083  
the tax at the rate at which it was imposed immediately prior to 73084  
the increase in rate. 73085

(3) If a vendor that is registered with the central 73086  
electronic registration system provided for in section 5740.05 of 73087  
the Revised Code makes a sale in this state by printed catalog and 73088  
the consumer computed the tax on the sale based on local rates 73089  
published in the catalog, any tax levied or repealed or rate 73090  
changed under this section shall not apply to such ~~sales~~ a sale 73091  
until the first day of a calendar quarter following the expiration 73092  
of one hundred twenty days from the date of notice by the tax 73093  
commissioner ~~to the vendor, or to the vendor's certified service~~ 73094  
~~provider, if the vendor has selected one~~ pursuant to division (H) 73095  
of this section. 73096

(C) If a resolution is rejected at a referendum or if a 73097  
resolution adopted after January 1, 1982, as an emergency measure 73098  
is repealed by the electors pursuant to division (B)(2) of this 73099  
section or section 5739.022 of the Revised Code, then for one year 73100  
after the date of the election at which the resolution was 73101  
rejected or repealed the board of county commissioners may not 73102  
adopt any resolution authorized by this section as an emergency 73103  
measure. 73104

(D) The board of county commissioners, at any time while a 73105  
tax levied under this section is in effect, may by resolution 73106  
reduce the rate at which the tax is levied to a lower rate 73107  
authorized by this section. Any reduction in the rate at which the 73108  
tax is levied shall be made effective on the first day of a 73109  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day after 73110  
~~the certification~~ a certified copy of the resolution is delivered 73111  
to the tax commissioner. 73112

(E) The tax on every retail sale subject to a tax levied 73113  
pursuant to this section shall be in addition to the tax levied by 73114  
section 5739.02 of the Revised Code and any tax levied pursuant to 73115  
section 5739.023 or 5739.026 of the Revised Code. 73116

A county that levies a tax pursuant to this section shall 73117  
levy a tax at the same rate pursuant to section 5741.021 of the 73118  
Revised Code. 73119

The additional tax levied by the county shall be collected 73120  
pursuant to section 5739.025 of the Revised Code. If the 73121  
additional tax or some portion thereof is levied for the purpose 73122  
of criminal and administrative justice services, the revenue from 73123  
the tax, or the amount or rate apportioned to that purpose, shall 73124  
be credited to a special fund created in the county treasury for 73125  
receipt of that revenue. 73126

Any tax levied pursuant to this section is subject to the 73127  
exemptions provided in section 5739.02 of the Revised Code and in 73128  
addition shall not be applicable to sales not within the taxing 73129  
power of a county under the Constitution of the United States or 73130  
the Ohio Constitution. 73131

(F) For purposes of this section, a copy of a resolution is 73132  
"certified" when it contains a written statement attesting that 73133  
the copy is a true and exact reproduction of the original 73134  
resolution. 73135

(G) If a board of commissioners intends to adopt a resolution 73136  
to levy a tax in whole or in part for the purpose of criminal and 73137  
administrative justice services, the board shall prepare and make 73138  
available at the first public hearing at which the resolution is 73139  
considered a statement containing the following information: 73140

(1) For each of the two preceding fiscal years, the amount of 73141  
expenditures made by the county from the county general fund for 73142  
the purpose of criminal and administrative justice services; 73143

(2) For the fiscal year in which the resolution is adopted, 73144  
the board's estimate of the amount of expenditures to be made by 73145  
the county from the county general fund for the purpose of 73146  
criminal and administrative justice services; 73147

(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 73180  
powers and duties vested in that court; the exercise by the clerk 73181  
of the court of common pleas, any clerk of a municipal court 73182  
having jurisdiction throughout the county, or the clerk of any 73183  
county court of all powers and duties vested in the clerk by law 73184  
except, in the case of the clerk of the court of common pleas, the 73185  
titling of motor vehicles or watercraft pursuant to Chapter 1548. 73186  
or 4505. of the Revised Code; the exercise by the county coroner 73187  
of all powers and duties vested in that office by law; making 73188  
payments to any other public agency or a private, nonprofit 73189  
agency, the purposes of which in the county include the diversion, 73190  
adjudication, detention, or rehabilitation of criminals or 73191  
juvenile offenders; the operation and maintenance of any detention 73192  
facility, as defined in section 2921.01 of the Revised Code; and 73193  
the construction, acquisition, equipping, or repair of such a 73194  
detention facility, including the payment of any debt charges 73195  
incurred in the issuance of securities pursuant to Chapter 133. of 73196  
the Revised Code for the purpose of constructing, acquiring, 73197  
equipping, or repairing such a facility. 73198

**Sec. 5739.022.** (A) The question of repeal of either a county 73199  
permissive tax or an increase in the rate of a county permissive 73200  
tax that was adopted as an emergency measure pursuant to section 73201  
5739.021 or 5739.026 of the Revised Code may be initiated by 73202  
filing with the board of elections of the county not less than 73203  
seventy-five days before the general election in any year a 73204  
petition requesting that an election be held on the question. The 73205  
question of repealing an increase in the rate of the county 73206  
permissive tax shall be submitted to the electors as a separate 73207  
question from the repeal of the tax in effect prior to the 73208  
increase in the rate. Any petition filed under this section shall 73209  
be signed by qualified electors residing in the county equal in 73210  
number to ten per cent of those voting for governor at the most 73211

recent gubernatorial election. 73212

After determination by it that the petition is valid, the 73213  
board of elections shall submit the question to the electors of 73214  
the county at the next general election. The election shall be 73215  
conducted, canvassed, and certified in the same manner as regular 73216  
elections for county offices in the county. The board of elections 73217  
shall notify the tax commissioner, in writing, of the election 73218  
upon determining that the petition is valid. Notice of the 73219  
election shall also be published in a newspaper of general 73220  
circulation in the district once a week for four consecutive weeks 73221  
prior to the election, stating the purpose, the time, and the 73222  
place of the election. The form of the ballot cast at the election 73223  
shall be prescribed by the secretary of state; however, the ballot 73224  
question shall read, "shall the tax (or, increase in the rate of 73225  
the tax) be retained? 73226

	Yes
	No

"

The question covered by the petition shall be submitted as a 73231  
separate proposition, but it may be printed on the same ballot 73232  
with any other proposition submitted at the same election other 73233  
than the election of officers. 73234

(B) If a majority of the qualified electors voting on the 73235  
question of repeal of either a county permissive tax or an 73236  
increase in the rate of a county permissive tax approve the 73237  
repeal, the board of elections shall notify the board of county 73238  
commissioners and the tax commissioner of the result of the 73239  
election immediately after the result has been declared. The board 73240  
of county commissioners shall, on the first day of the ~~month~~ 73241  
calendar quarter following the expiration of ~~thirty~~ sixty-five 73242

days after the date ~~it receives~~ the board and the tax commissioner 73243  
receive the notice, in the case of a repeal of a county permissive 73244  
tax, cease to levy the tax, or, in the case of a repeal of an 73245  
increase in the rate of a county permissive tax, levy the tax at 73246  
the rate at which it was imposed immediately prior to the increase 73247  
in rate and cease to levy the increased rate. 73248

(C) Upon receipt from a board of elections of a notice of the 73249  
results of an election required by division (B) of this section, 73250  
the tax commissioner shall provide notice of a tax repeal or rate 73251  
change in a manner that is reasonably accessible to all affected 73252  
vendors. The commissioner shall provide this notice at least sixty 73253  
days prior to the effective date of the rate change. The 73254  
commissioner, by rule, may establish the method by which notice 73255  
will be provided. 73256

(D) If a vendor that is registered with the central 73257  
electronic registration system provided for in section 5740.05 of 73258  
the Revised Code makes a sale in this state by printed catalog and 73259  
the consumer computed the tax on the sale based on local rates 73260  
published in the catalog, any tax repealed or rate changed under 73261  
this section shall not apply to such a sale until the first day of 73262  
a calendar quarter following the expiration of one hundred twenty 73263  
days from the date of notice by the tax commissioner pursuant to 73264  
division (C) of this section. 73265

**Sec. 5739.023.** (A)(1) For the purpose of providing additional 73266  
general revenues for a transit authority and paying the expenses 73267  
of administering such levy, any transit authority as defined in 73268  
division (U) of section 5739.01 of the Revised Code may levy a tax 73269  
upon every retail sale made in the territory of the transit 73270  
authority, except sales of watercraft and outboard motors required 73271  
to be titled pursuant to Chapter 1548. of the Revised Code and 73272  
sales of motor vehicles, at a rate of not more than one and 73273

one-half per cent at any multiple of one-fourth of one per cent 73274  
and may increase the existing rate of tax to not more than one and 73275  
one-half per cent at any multiple of one-fourth of one per cent. 73276  
The tax shall be levied and the rate increased pursuant to a 73277  
resolution of the legislative authority of the transit authority 73278  
and a certified copy of the resolution shall be delivered by the 73279  
fiscal officer to the board of elections as provided in section 73280  
3505.071 of the Revised Code and to the tax commissioner. The 73281  
resolution shall specify the number of years for which the tax is 73282  
to be in effect or that the tax is for a continuing period of 73283  
time, and the date of the election on the question of the tax 73284  
pursuant to section 306.70 of the Revised Code. The board of 73285  
elections shall certify the results of the election to the transit 73286  
authority and tax commissioner. 73287

(2) Except as provided in division (C) of this section, the 73288  
tax levied by the resolution shall become effective on the first 73289  
day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth 73290  
day following the date the tax commissioner receives from the 73291  
board of elections the certification of the results of the 73292  
election on the question of the tax ~~by the board of elections~~. 73293

(B) The legislative authority may, at any time while the tax 73294  
is in effect, by resolution fix the rate of the tax at any rate 73295  
authorized by this section and not in excess of that approved by 73296  
the voters pursuant to section 306.70 of the Revised Code. Except 73297  
as provided in division (C) of this section, any change in the 73298  
rate of the tax shall be made effective on the first day of a 73299  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day 73300  
following the date the tax commissioner receives the certification 73301  
of the resolution ~~to the tax commissioner~~; provided, that in any 73302  
case where bonds, or notes in anticipation of bonds, of a regional 73303  
transit authority have been issued under section 306.40 of the 73304  
Revised Code without a vote of the electors while the tax proposed 73305

to be reduced was in effect, the board of trustees of the regional 73306  
transit authority shall continue to levy and collect under 73307  
authority of the original election authorizing the tax a rate of 73308  
tax that the board of trustees reasonably estimates will produce 73309  
an amount in that year equal to the amount of principal of and 73310  
interest on those bonds as is payable in that year. 73311

(C) Upon receipt from the board of elections of the 73312  
certification of the results of the election required by division 73313  
(A) of this section, or from the legislative authority of the 73314  
certification of a resolution under division (B) of this section, 73315  
the tax commissioner shall provide notice of a tax rate change in 73316  
a manner that is reasonably accessible to all affected vendors. 73317  
The commissioner shall provide this notice at least sixty days 73318  
prior to the effective date of the rate change. The commissioner, 73319  
by rule, may establish the method by which notice will be 73320  
provided. 73321

(D) If a vendor that is registered with the central 73322  
electronic registration system provided for in section 5740.05 of 73323  
the Revised Code makes a sale in this state by printed catalog and 73324  
the consumer computed the tax on the sale based on local rates 73325  
published in the catalog, any tax levied or rate changed under 73326  
this section shall not apply to such a sale until the first day of 73327  
a calendar quarter following the expiration of one hundred twenty 73328  
days from the date of notice by the tax commissioner ~~to the~~ 73329  
~~vendor, or to the vendor's certified service provider, if the~~ 73330  
~~vendor has selected one~~ pursuant to division (C) of this section. 73331

~~(D)~~(E) The tax on every retail sale subject to a tax levied 73332  
pursuant to this section is in addition to the tax levied by 73333  
section 5739.02 of the Revised Code and any tax levied pursuant to 73334  
section 5739.021 or 5739.026 of the Revised Code. 73335

~~(E)~~(F) The additional tax levied by the transit authority 73336  
shall be collected pursuant to section 5739.025 of the Revised 73337

Code. 73338

~~(F)~~(G) Any tax levied pursuant to this section is subject to 73339  
the exemptions provided in section 5739.02 of the Revised Code and 73340  
in addition shall not be applicable to sales not within the taxing 73341  
power of a transit authority under the constitution of the United 73342  
States or the constitution of this state. 73343

~~(G)~~(H) The rate of a tax levied under this section is subject 73344  
to reduction under section 5739.028 of the Revised Code, if a 73345  
ballot question is approved by voters pursuant to that section. 73346

**Sec. 5739.025.** As used in this section, "local tax" means a 73347  
tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 73348  
5741.021, 5741.022, or 5741.023 of the Revised Code. 73349

(A) The taxes levied by sections 5739.02 and 5741.02 of the 73350  
Revised Code shall be collected as follows: 73351

(1) On and after July 1, 2003, and on or before June 30, 73352  
2005, in accordance with the following schedule: 73353

<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>	73354
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73355
<u>.17</u>	<u>.33</u>	<u>2¢</u>	73356
<u>.34</u>	<u>.50</u>	<u>3¢</u>	73357
<u>.51</u>	<u>.66</u>	<u>4¢</u>	73358
<u>.67</u>	<u>.83</u>	<u>5¢</u>	73359
<u>.84</u>	<u>1.00</u>	<u>6¢</u>	73360

If the price exceeds one dollar, the tax is six cents on each 73363  
one dollar. If the price exceeds one dollar or a multiple thereof 73364  
by not more than seventeen cents, the amount of tax is six cents 73365  
for each one dollar plus one cent. If the price exceeds one dollar 73366  
or a multiple thereof by more than seventeen cents, the amount of 73367

tax is six cents for each one dollar plus the amount of tax for 73368  
prices eighteen cents through ninety-nine cents in accordance with 73369  
the schedule above. 73370

(2) On and after July 1, 2005, and on and before December 31, 73371  
2005, in accordance with the following schedule: 73372

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73373
.16	.20	1¢	73374
.21	.40	2¢	73375
.41	.60	3¢	73376
.61	.80	4¢	73377
.81	1.00	5¢	73378

If the price exceeds one dollar, the tax is five cents on 73381  
each one dollar. If the price exceeds one dollar or a multiple 73382  
thereof by not more than twenty cents, the amount of tax is five 73383  
cents for each one dollar plus one cent. If the price exceeds one 73384  
dollar or a multiple thereof by more than twenty cents, the amount 73385  
of tax is five cents for each one dollar plus the amount of tax 73386  
for prices twenty-one cents through ninety-nine cents in 73387  
accordance with the schedule above. 73388

(B) ~~The~~ On and after July 1, 2003, and on and before June 30, 73389  
2005, the combined taxes levied by sections 5739.02 and 5741.02 73390  
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73391  
5741.022, and 5741.023 of the Revised Code shall be collected in 73392  
accordance with the following schedules: 73393

(1) When the combined rate of state and local tax is six and 73394  
one-fourth per cent: 73395

<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>	73396
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73397
			73398
			73399

<u>.17</u>	<u>.32</u>	<u>2¢</u>	73400
<u>.33</u>	<u>.48</u>	<u>3¢</u>	73401
<u>.49</u>	<u>.64</u>	<u>4¢</u>	73402
<u>.65</u>	<u>.80</u>	<u>5¢</u>	73403
<u>.81</u>	<u>.96</u>	<u>6¢</u>	73404
<u>.97</u>	<u>1.12</u>	<u>7¢</u>	73405
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>	73406
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>	73407
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>	73408
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>	73409
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>	73410
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>	73411
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>	73412
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>	73413
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>	73414
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>	73415
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>	73416
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>	73417
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>	73418
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>	73419
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>	73420
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>	73421
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>	73422
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>	73423

If the price exceeds four dollars, the tax is twenty-five 73424  
cents on each four dollars. If the price exceeds four dollars or a 73425  
multiple thereof by not more than sixteen cents, the amount of tax 73426  
is twenty-five cents for each four dollars plus one cent. If the 73427  
price exceeds four dollars or a multiple thereof by more than 73428  
sixteen cents, the amount of tax is twenty-five cents for each 73429  
four dollars plus the amount of tax for prices seventeen cents 73430  
through three dollars and ninety-nine cents in accordance with the 73431  
schedule above. 73432

(2) When the combined rate of state and local tax is six and one-half per cent: 73433  
73434

<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>	73437
<u>.16</u>	<u>.30</u>	<u>2¢</u>	73438
<u>.31</u>	<u>.46</u>	<u>3¢</u>	73439
<u>.47</u>	<u>.61</u>	<u>4¢</u>	73440
<u>.62</u>	<u>.76</u>	<u>5¢</u>	73441
<u>.77</u>	<u>.92</u>	<u>6¢</u>	73442
<u>.93</u>	<u>1.07</u>	<u>7¢</u>	73443
<u>1.08</u>	<u>1.23</u>	<u>8¢</u>	73444
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>	73445
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>	73446
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>	73447
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>	73448
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>	73449

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. 73450  
73451  
73452  
73453  
73454  
73455  
73456  
73457

(3) When the combined rate of state and local tax is six and three-fourths per cent: 73458  
73459

<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>	73462
<u>.16</u>	<u>.29</u>	<u>2¢</u>	73463
<u>.30</u>	<u>.44</u>	<u>3¢</u>	73464

<u>.45</u>	<u>.59</u>	<u>4¢</u>	73465
<u>.60</u>	<u>.74</u>	<u>5¢</u>	73466
<u>.75</u>	<u>.88</u>	<u>6¢</u>	73467
<u>.89</u>	<u>1.03</u>	<u>7¢</u>	73468
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>	73469
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>	73470
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>	73471
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>	73472
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>	73473
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>	73474
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>	73475
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>	73476
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>	73477
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>	73478
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>	73479
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>	73480
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>	73481
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>	73482
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>	73483
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>	73484
<u>3.41</u>	<u>3.55</u>	<u>24¢</u>	73485
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>	73486
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>	73487
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>	73488

If the price exceeds four dollars, the tax is twenty-seven 73489  
cents on each four dollars. If the price exceeds four dollars or a 73490  
multiple thereof by not more than fourteen cents, the amount of 73491  
tax is twenty-seven cents for each four dollars plus one cent. If 73492  
the price exceeds four dollars or a multiple thereof by more than 73493  
fourteen but by not more than twenty-nine cents, the amount of tax 73494  
is twenty-seven cents for each four dollars plus two cents. If the 73495  
price exceeds four dollars or a multiple thereof by more than 73496  
twenty-nine cents the amount of tax is twenty-seven cents for each 73497

four dollars plus the amount of tax for prices thirty cents 73498  
through three dollars and ninety-nine cents in accordance with the 73499  
schedule above. 73500

(4) When the combined rate of state and local tax is seven 73501  
per cent: 73502

<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>	73503
<u>.16</u>	<u>.28</u>	<u>2¢</u>	73504
<u>.29</u>	<u>.42</u>	<u>3¢</u>	73505
<u>.43</u>	<u>.57</u>	<u>4¢</u>	73506
<u>.58</u>	<u>.71</u>	<u>5¢</u>	73507
<u>.72</u>	<u>.85</u>	<u>6¢</u>	73508
<u>.86</u>	<u>1.00</u>	<u>7¢</u>	73509

If the price exceeds one dollar, the tax is seven cents on 73510  
each one dollar. If the price exceeds one dollar or a multiple 73511  
thereof by not more than fifteen cents, the amount of tax is seven 73512  
cents for each one dollar plus one cent. If the price exceeds one 73513  
dollar or a multiple thereof by more than fifteen cents, the 73514  
amount of tax is seven cents for each one dollar plus the amount 73515  
of tax for prices sixteen cents through ninety-nine cents in 73516  
accordance with the schedule above. 73517

(5) When the combined rate of state and local tax is seven 73518  
and one-fourth per cent: 73519

<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>	73520
<u>.16</u>	<u>.27</u>	<u>2¢</u>	73521
<u>.28</u>	<u>.41</u>	<u>3¢</u>	73522
<u>.42</u>	<u>.55</u>	<u>4¢</u>	73523
<u>.56</u>	<u>.68</u>	<u>5¢</u>	73524
<u>.69</u>	<u>.82</u>	<u>6¢</u>	73525

<u>.83</u>	<u>.96</u>	<u>7¢</u>	73530
<u>.97</u>	<u>1.10</u>	<u>8¢</u>	73531
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>	73532
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>	73533
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>	73534
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>	73535
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>	73536
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>	73537
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>	73538
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>	73539
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>	73540
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>	73541
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>	73542
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>	73543
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>	73544
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>	73545
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>	73546
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>	73547
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>	73548
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>	73549
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>	73550
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>	73551
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>	73552

If the price exceeds four dollars, the tax is twenty-nine 73553  
cents on each four dollars. If the price exceeds four dollars or a 73554  
multiple thereof by not more than thirteen cents, the amount of 73555  
tax is twenty-nine cents for each four dollars plus one cent. If 73556  
the price exceeds four dollars or a multiple thereof by more than 73557  
thirteen cents but by not more than twenty-seven cents, the amount 73558  
of tax is twenty-nine cents for each four dollars plus two cents. 73559  
If the price exceeds four dollars or a multiple thereof by more 73560  
than twenty-seven cents, the amount of tax is twenty-nine cents 73561  
for each four dollars plus the amount of tax for prices 73562

twenty-eight cents through three dollars and ninety-nine cents in 73563  
accordance with the schedule above. 73564

(6) When the combined rate of state and local tax is seven 73565  
and one-half per cent: 73566

<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>	73569
<u>.16</u>	<u>.26</u>	<u>2¢</u>	73570
<u>.27</u>	<u>.40</u>	<u>3¢</u>	73571
<u>.41</u>	<u>.53</u>	<u>4¢</u>	73572
<u>.54</u>	<u>.65</u>	<u>5¢</u>	73573
<u>.66</u>	<u>.80</u>	<u>6¢</u>	73574
<u>.81</u>	<u>.93</u>	<u>7¢</u>	73575
<u>.94</u>	<u>1.06</u>	<u>8¢</u>	73576
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>	73577
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>	73578
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>	73579
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>	73580
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>	73581
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>	73582
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>	73583

If the price exceeds two dollars, the tax is fifteen cents on 73584  
each two dollars. If the price exceeds two dollars or a multiple 73585  
thereof by not more than fifteen cents, the amount of tax is 73586  
fifteen cents for each two dollars plus one cent. If the price 73587  
exceeds two dollars or a multiple thereof by more than fifteen 73588  
cents, the amount of tax is fifteen cents for each two dollars 73589  
plus the amount of tax for prices sixteen cents through one dollar 73590  
and ninety-nine cents in accordance with the schedule above. 73591

(7) When the combined rate of state and local tax is seven 73592  
and three-fourths per cent: 73593

If the price 73594  
The amount of



cents on each four dollars. If the price exceeds four dollars or a 73628  
multiple thereof by not more than twelve cents, the amount of tax 73629  
is thirty-one cents for each four dollars plus one cent. If the 73630  
price exceeds four dollars or a multiple thereof by more than 73631  
twelve cents but by not more than twenty-five cents, the amount of 73632  
tax is thirty-one cents for each four dollars plus two cents. If 73633  
the price exceeds four dollars or a multiple thereof by more than 73634  
twenty-five cents, the amount of tax is thirty-one cents for each 73635  
four dollars plus the amount of tax for prices twenty-six cents 73636  
through three dollars and ninety-nine cents in accordance with the 73637  
schedule above. 73638

(8) When the combined rate of state and local tax is eight 73639  
per cent: 73640

<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>	73641
<u>.16</u>	<u>.25</u>	<u>2¢</u>	73642
<u>.26</u>	<u>.37</u>	<u>3¢</u>	73643
<u>.38</u>	<u>.50</u>	<u>4¢</u>	73644
<u>.51</u>	<u>.62</u>	<u>5¢</u>	73645
<u>.63</u>	<u>.75</u>	<u>6¢</u>	73646
<u>.76</u>	<u>.87</u>	<u>7¢</u>	73647
<u>.88</u>	<u>1.00</u>	<u>8¢</u>	73648

If the price exceeds one dollar, the tax is eight cents on 73651  
each one dollar. If the price exceeds one dollar or a multiple 73652  
thereof by not more than twelve cents, the amount of tax is eight 73653  
cents for each one dollar plus one cent. If the price exceeds one 73654  
dollar or a multiple thereof by more than twelve cents but not 73655  
more than twenty-five cents, the amount of tax is eight cents for 73656  
each one dollar plus two cents. If the price exceeds one dollar or 73657  
a multiple thereof by more than twenty-five cents, the amount of 73658  
tax is eight cents for each one dollar plus the amount of tax for 73659

prices twenty-six cents through ninety-nine cents in accordance 73660  
with the schedule above. 73661

(9) When the combined rate of state and local tax is eight 73662  
and one-fourth per cent: 73663

<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>	73666
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73667
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73668
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73669
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73670
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73671
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73672
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73673
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73674
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73675
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73676
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73677
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73678
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73679
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73680
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73681
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73682
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73683
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73684
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73685
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73686
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73687
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73688
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73689
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73690
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73691
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73692

<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73693
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73694
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73695
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73696
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	73697
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	73698

If the price exceeds four dollars, the tax is thirty-three 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-three 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-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

<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>	73713
<u>.16</u>	<u>.23</u>	<u>2¢</u>	73714
<u>.24</u>	<u>.35</u>	<u>3¢</u>	73715
<u>.36</u>	<u>.47</u>	<u>4¢</u>	73716
<u>.48</u>	<u>.58</u>	<u>5¢</u>	73717
<u>.59</u>	<u>.70</u>	<u>6¢</u>	73718
<u>.71</u>	<u>.82</u>	<u>7¢</u>	73719
<u>.83</u>	<u>.94</u>	<u>8¢</u>	73720
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	73721
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	73722

<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	73725
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	73726
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	73727
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	73728
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	73729
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	73730
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	73731

If the price exceeds two dollars, the tax is seventeen cents 73732  
on each two dollars. If the price exceeds two dollars or a 73733  
multiple thereof by not more than eleven cents, the amount of tax 73734  
is seventeen cents for each two dollars plus one cent. If the 73735  
price exceeds two dollars or a multiple thereof by more than 73736  
eleven cents but by not more than twenty-three cents, the amount 73737  
of tax is seventeen cents for each two dollars plus two cents. If 73738  
the price exceeds two dollars or a multiple thereof by more than 73739  
twenty-three cents, the amount of tax is seventeen cents for each 73740  
two dollars plus the amount of tax for prices twenty-four cents 73741  
through one dollar and ninety-nine cents in accordance with the 73742  
schedule above. 73743

(11) When the combined rate of state and local tax is eight 73744  
and three-fourths per cent: 73745

<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>	73746
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73747
<u>.23</u>	<u>.34</u>	<u>3¢</u>	73748
<u>.35</u>	<u>.45</u>	<u>4¢</u>	73749
<u>.46</u>	<u>.57</u>	<u>5¢</u>	73750
<u>.58</u>	<u>.68</u>	<u>6¢</u>	73751
<u>.69</u>	<u>.80</u>	<u>7¢</u>	73752
<u>.81</u>	<u>.91</u>	<u>8¢</u>	73753
<u>.92</u>	<u>1.02</u>	<u>9¢</u>	73754

<u>1.03</u>	<u>1.14</u>	<u>10¢</u>	73757
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>	73758
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>	73759
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>	73760
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>	73761
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>	73762
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>	73763
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>	73764
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>	73765
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>	73766
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>	73767
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>	73768
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>	73769
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>	73770
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>	73771
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>	73772
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>	73773
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>	73774
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>	73775
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>	73776
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>	73777
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>	73778
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>	73779
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>	73780
<u>3.78</u>	<u>3.88</u>	<u>34¢</u>	73781
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>	73782

If the price exceeds four dollars, the tax is thirty-five 73783  
cents on each four dollars. If the price exceeds four dollars or a 73784  
multiple thereof by not more than eleven cents, the amount of tax 73785  
is thirty-five cents for each four dollars plus one cent. If the 73786  
price exceeds four dollars or a multiple thereof by more than 73787  
eleven cents but by not more than twenty-two cents, the amount of 73788  
tax is thirty-five cents for each four dollars plus two cents. If 73789

the price exceeds four dollars or a multiple thereof by more than 73790  
twenty-two cents, the amount of tax is thirty-five cents for each 73791  
four dollars plus the amount of tax for prices twenty-three cents 73792  
through three dollars and ninety-nine cents in accordance with the 73793  
schedule above. 73794

(12) When the combined rate of state and local tax is nine 73795  
per cent: 73796

<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>	73799
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73800
<u>.23</u>	<u>.33</u>	<u>3¢</u>	73801
<u>.34</u>	<u>.44</u>	<u>4¢</u>	73802
<u>.45</u>	<u>.55</u>	<u>5¢</u>	73803
<u>.56</u>	<u>.66</u>	<u>6¢</u>	73804
<u>.67</u>	<u>.77</u>	<u>7¢</u>	73805
<u>.78</u>	<u>.88</u>	<u>8¢</u>	73806
<u>.89</u>	<u>1.00</u>	<u>9¢</u>	73807

If the price exceeds one dollar, the tax is nine cents on 73808  
each one dollar. If the price exceeds one dollar or a multiple 73809  
thereof by not more than eleven cents, the amount of tax is nine 73810  
cents for each one dollar plus one cent. If the price exceeds one 73811  
dollar or a multiple thereof by more than eleven cents but by not 73812  
more than twenty-two cents, the amount of tax is nine cents for 73813  
each one dollar plus two cents. If the price exceeds one dollar or 73814  
a multiple thereof by more than twenty-two cents, the amount of 73815  
tax is nine cents for each one dollar plus the amount of tax for 73816  
prices twenty-three cents through ninety-nine cents in accordance 73817  
with the schedule above. 73818

(C) On and after July 1, 2005, and on and before December 31, 73819  
2005, the combined taxes levied by sections 5739.02 and 5741.02 73820  
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73821

5741.022, and 5741.023 of the Revised Code shall be collected in 73822  
accordance with the following schedules: 73823

(1) When the total rate of local tax is one-fourth per cent: 73824

If the price	But not	The amount	
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73825

is at least	more than	of the tax is	
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73826

\$ .01	\$ .15	No tax	73827
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.16	.19	1¢	73828
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.20	.38	2¢	73829
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.39	.57	3¢	73830
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.58	.76	4¢	73831
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.77	.95	5¢	73832
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.96	1.14	6¢	73833
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1.15	1.33	7¢	73834
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1.34	1.52	8¢	73835
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1.53	1.71	9¢	73836
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1.72	1.90	10¢	73837
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1.91	2.09	11¢	73838
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2.10	2.28	12¢	73839
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2.29	2.47	13¢	73840
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2.48	2.66	14¢	73841
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2.67	2.85	15¢	73842
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2.86	3.04	16¢	73843
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3.05	3.23	17¢	73844
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3.24	3.42	18¢	73845
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3.43	3.61	19¢	73846
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3.62	3.80	20¢	73847
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3.81	4.00	21¢	73848
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If the price exceeds four dollars, the tax is twenty-one 73849

cents on each four dollars. If the price exceeds four dollars or a 73850

multiple thereof by not more than nineteen cents, the amount of 73851

tax is twenty-one cents for each four dollars plus one cent. If 73852

the price exceeds four dollars or a multiple thereof by more than 73853

nineteen cents, the amount of tax is twenty-one cents for each 73854  
four dollars plus the amount of tax for prices twenty cents 73855  
through three dollars and ninety-nine cents in accordance with the 73856  
schedule above. 73857

(2) When the combined rate of local tax is one-half per cent: 73858

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73861
.16	.18	1¢	73862
.19	.36	2¢	73863
.37	.54	3¢	73864
.55	.72	4¢	73865
.73	.90	5¢	73866
.91	1.09	6¢	73867
1.10	1.27	7¢	73868
1.28	1.46	8¢	73869
1.47	1.64	9¢	73870
1.65	1.82	10¢	73871
1.83	2.00	11¢	73872

If the price exceeds two dollars, the tax is eleven cents on 73873  
each two dollars. If the price exceeds two dollars or a multiple 73874  
thereof by not more than eighteen cents, the amount of tax is 73875  
eleven cents for each two dollars plus one cent. If the price 73876  
exceeds two dollars or a multiple thereof by more than eighteen 73877  
cents, the amount of tax is eleven cents for each two dollars plus 73878  
the amount of tax for prices nineteen cents through one dollar and 73879  
ninety-nine cents in accordance with the schedule above. 73880

(3) When the combined rate of local tax is three-fourths per 73881  
cent: 73882

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73885

.16	.17	1¢	73886
.18	.34	2¢	73887
.35	.52	3¢	73888
.53	.69	4¢	73889
.70	.86	5¢	73890
.87	1.04	6¢	73891
1.05	1.21	7¢	73892
1.22	1.39	8¢	73893
1.40	1.56	9¢	73894
1.57	1.73	10¢	73895
1.74	1.91	11¢	73896
1.92	2.08	12¢	73897
2.09	2.26	13¢	73898
2.27	2.43	14¢	73899
2.44	2.60	15¢	73900
2.61	2.78	16¢	73901
2.79	2.95	17¢	73902
2.96	3.13	18¢	73903
3.14	3.30	19¢	73904
3.31	3.47	20¢	73905
3.48	3.65	21¢	73906
3.66	3.82	22¢	73907
3.83	4.00	23¢	73908

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.

73909  
73910  
73911  
73912  
73913  
73914  
73915  
73916  
73917

(4) When the combined rate of local tax is one per cent:			73918
If the price	But not	The amount	73919
is at least	more than	of the tax is	73920
\$ .01	\$ .15	No tax	73921
.16	.17	1¢	73922
.18	.34	2¢	73923
.35	.50	3¢	73924
.51	.67	4¢	73925
.68	.83	5¢	73926
.84	1.00	6¢	73927

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	73938
is at least	more than	of the tax is	73939
\$ .01	\$ .15	No tax	73940
.16	.16	1¢	73941
.17	.32	2¢	73942
.33	.48	3¢	73943
.49	.64	4¢	73944
.65	.80	5¢	73945
.81	.96	6¢	73946
.97	1.12	7¢	73947
1.13	1.28	8¢	73948
1.29	1.44	9¢	73949

1.45	1.60	10¢	73950
1.61	1.76	11¢	73951
1.77	1.92	12¢	73952
1.93	2.08	13¢	73953
2.09	2.24	14¢	73954
2.25	2.40	15¢	73955
2.41	2.56	16¢	73956
2.57	2.72	17¢	73957
2.73	2.88	18¢	73958
2.89	3.04	19¢	73959
3.05	3.20	20¢	73960
3.21	3.36	21¢	73961
3.37	3.52	22¢	73962
3.53	3.68	23¢	73963
3.69	3.84	24¢	73964
3.85	4.00	25¢	73965

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 is at least	But not more than	The amount of the tax is	
\$ .01	\$ .15	No tax	73977
.16	.30	2¢	73978
.31	.46	3¢	73979

.47	.61	4¢	73982
.62	.76	5¢	73983
.77	.92	6¢	73984
.93	1.07	7¢	73985
1.08	1.23	8¢	73986
1.24	1.38	9¢	73987
1.39	1.53	10¢	73988
1.54	1.69	11¢	73989
1.70	1.84	12¢	73990
1.85	2.00	13¢	73991

If the price exceeds two dollars, the tax is thirteen cents 73992  
on each two dollars. If the price exceeds two dollars or a 73993  
multiple thereof by not more than fifteen cents, the amount of tax 73994  
is thirteen cents for each two dollars plus one cent. If the price 73995  
exceeds two dollars or a multiple thereof by more than fifteen 73996  
cents, the amount of tax is thirteen cents for each two dollars 73997  
plus the amount of tax for prices sixteen cents through one dollar 73998  
and ninety-nine cents in accordance with the schedule above. 73999

(7) When the combined rate of local tax is one and 74000  
three-fourths per cent: 74001

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74002
.16	.29	2¢	74003
.30	.44	3¢	74004
.45	.59	4¢	74005
.60	.74	5¢	74006
.75	.88	6¢	74007
.89	1.03	7¢	74008
1.04	1.18	8¢	74009
1.19	1.33	9¢	74010
1.34	1.48	10¢	74011

1.49	1.62	11¢	74014
1.63	1.77	12¢	74015
1.78	1.92	13¢	74016
1.93	2.07	14¢	74017
2.08	2.22	15¢	74018
2.23	2.37	16¢	74019
2.38	2.51	17¢	74020
2.52	2.66	18¢	74021
2.67	2.81	19¢	74022
2.82	2.96	20¢	74023
2.97	3.11	21¢	74024
3.12	3.25	22¢	74025
3.26	3.40	23¢	74026
3.41	3.55	24¢	74027
3.56	3.70	25¢	74028
3.71	3.85	26¢	74029
3.86	4.00	27¢	74030

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	74046
.16	.28	2¢	74047
.29	.42	3¢	74048
.43	.57	4¢	74049
.58	.71	5¢	74050
.72	.85	6¢	74051
.86	1.00	7¢	74052

If the price exceeds one dollar, the tax is seven cents on 74053  
each one dollar. If the price exceeds one dollar or a multiple 74054  
thereof by not more than fifteen cents, the amount of tax is seven 74055  
cents for each one dollar plus one cent. If the price exceeds one 74056  
dollar or a multiple thereof by more than fifteen cents, the 74057  
amount of tax is seven cents for each one dollar plus the amount 74058  
of tax for prices sixteen cents through ninety-nine cents in 74059  
accordance with the schedule above. 74060

(9) When the combined rate of local tax is two and one-fourth 74061  
per cent: 74062

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74063
.16	.27	2¢	74064
.28	.41	3¢	74065
.42	.55	4¢	74066
.56	.68	5¢	74067
.69	.82	6¢	74068
.83	.96	7¢	74069
.97	1.10	8¢	74070
1.11	1.24	9¢	74071
1.25	1.37	10¢	74072
1.38	1.51	11¢	74073
1.52	1.65	12¢	74074
1.66	1.79	13¢	74075

1.80	1.93	14¢	74078
1.94	2.06	15¢	74079
2.07	2.20	16¢	74080
2.21	2.34	17¢	74081
2.35	2.48	18¢	74082
2.49	2.62	19¢	74083
2.63	2.75	20¢	74084
2.76	2.89	21¢	74085
2.90	3.03	22¢	74086
3.04	3.17	23¢	74087
3.18	3.31	24¢	74088
3.32	3.44	25¢	74089
3.45	3.58	26¢	74090
3.59	3.72	27¢	74091
3.73	3.86	28¢	74092
3.87	4.00	29¢	74093

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	74108
is at least	more than	of the tax is	74109

\$ .01	\$ .15	No tax	74110
.16	.26	2¢	74111
.27	.40	3¢	74112
.41	.53	4¢	74113
.54	.65	5¢	74114
.66	.80	6¢	74115
.81	.93	7¢	74116
.94	1.06	8¢	74117
1.07	1.20	9¢	74118
1.21	1.33	10¢	74119
1.34	1.46	11¢	74120
1.47	1.60	12¢	74121
1.61	1.73	13¢	74122
1.74	1.86	14¢	74123
1.87	2.00	15¢	74124

If the price exceeds two dollars, the tax is fifteen cents on 74125  
each two dollars. If the price exceeds two dollars or a multiple 74126  
thereof by not more than fifteen cents, the amount of tax is 74127  
fifteen cents for each two dollars plus one cent. If the price 74128  
exceeds two dollars or a multiple thereof by more than fifteen 74129  
cents, the amount of tax is fifteen cents for each two dollars 74130  
plus the amount of tax for prices sixteen cents through one dollar 74131  
and ninety-nine cents in accordance with the schedule above. 74132

(11) When the combined rate of local tax is two and 74133  
three-fourths per cent: 74134

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74137
.16	.25	2¢	74138
.26	.38	3¢	74139
.39	.51	4¢	74140
.52	.64	5¢	74141

.65	.77	6¢	74142
.78	.90	7¢	74143
.91	1.03	8¢	74144
1.04	1.16	9¢	74145
1.17	1.29	10¢	74146
1.30	1.41	11¢	74147
1.42	1.54	12¢	74148
1.55	1.67	13¢	74149
1.68	1.80	14¢	74150
1.81	1.93	15¢	74151
1.94	2.06	16¢	74152
2.07	2.19	17¢	74153
2.20	2.32	18¢	74154
2.33	2.45	19¢	74155
2.46	2.58	20¢	74156
2.59	2.70	21¢	74157
2.71	2.83	22¢	74158
2.84	2.96	23¢	74159
2.97	3.09	24¢	74160
3.10	3.22	25¢	74161
3.23	3.35	26¢	74162
3.36	3.48	27¢	74163
3.49	3.61	28¢	74164
3.62	3.74	29¢	74165
3.75	3.87	30¢	74166
3.88	4.00	31¢	74167

If the price exceeds four dollars, the tax is thirty-one 74168  
cents on each four dollars. If the price exceeds four dollars or a 74169  
multiple thereof by not more than twelve cents, the amount of tax 74170  
is thirty-one cents for each four dollars plus one cent. If the 74171  
price exceeds four dollars or a multiple thereof by more than 74172  
twelve cents but not more than twenty-five cents, the amount of 74173  
tax is thirty-one cents for each four dollars plus two cents. If 74174

the price exceeds four dollars or a multiple thereof by more than 74175  
twenty-five cents, the amount of tax is thirty-one cents for each 74176  
four dollars plus the amount of tax for prices twenty-six cents 74177  
through three dollars and ninety-nine cents in accordance with the 74178  
schedule above. 74179

(12) When the combined rate of local tax is three per cent: 74180

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74183
.16	.25	2¢	74184
.26	.37	3¢	74185
.38	.50	4¢	74186
.51	.62	5¢	74187
.63	.75	6¢	74188
.76	.87	7¢	74189
.88	1.00	8¢	74190

If the price exceeds one dollar, the tax is eight cents on 74191  
each one dollar. If the price exceeds one dollar or a multiple 74192  
thereof by not more than twelve cents, the amount of tax is eight 74193  
cents for each one dollar plus one cent. If the price exceeds one 74194  
dollar or a multiple thereof by more than twelve cents but not 74195  
more than twenty-five cents, the amount of tax is eight cents for 74196  
each one dollar plus two cents. If the price exceeds one dollar or 74197  
a multiple thereof by more than twenty-five cents, the amount of 74198  
tax is eight cents for each one dollar plus the amount of tax for 74199  
prices twenty-six cents through ninety-nine cents in accordance 74200  
with the schedule above. 74201

~~(C)~~(D) In lieu of collecting the tax pursuant to the 74202  
schedules set forth in divisions (A) ~~and~~, (B), and (C) of this 74203  
section, a vendor may compute the tax on each sale as follows: 74204

(1) On sales of fifteen cents or less, no tax shall apply. 74205

(2) On sales in excess of fifteen cents, multiply the price 74206  
by the aggregate rate of taxes in effect under sections ~~5739.01~~ 74207  
5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 74208  
5741.021, 5741.022, and 5741.023 of the Revised Code. The 74209  
computation shall be carried out to six decimal places. If the 74210  
result is a fractional amount of a cent, the calculated tax shall 74211  
be increased to the next highest cent and that amount shall be 74212  
collected by the vendor. 74213

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute 74214  
the tax on each sale by multiplying the price by the aggregate 74215  
rate of taxes in effect under sections 5739.02 and 5741.02, and 74216  
sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 74217  
5741.023 of the Revised Code. The computation shall be carried out 74218  
to three decimal places. If the result is a fractional amount of a 74219  
cent, the calculated tax shall be rounded to a whole cent using a 74220  
method that rounds up to the next cent whenever the third decimal 74221  
place is greater than four. A vendor may elect to compute the tax 74222  
due on a transaction on an item or an invoice basis. 74223

(F) In auditing a vendor, the tax commissioner shall consider 74224  
the method prescribed by this section that was used by the vendor 74225  
in determining and collecting the tax due under this chapter on 74226  
taxable transactions. If the vendor correctly collects and remits 74227  
the tax due under this chapter in accordance with the schedules in 74228  
divisions (A) ~~and~~, (B), and (C) of this section or in accordance 74229  
with the computation prescribed in division ~~(C)~~(D) or (E) of this 74230  
section, the commissioner shall not assess any additional tax on 74231  
those transactions. 74232

(G)(1) With respect to a sale of a fractional ownership 74233  
program aircraft used primarily in a fractional aircraft ownership 74234  
program, including all accessories attached to such aircraft, the 74235  
tax shall be calculated pursuant to divisions (A) to (E) of this 74236  
section, provided that the tax commissioner shall modify those 74237

calculations so that the maximum tax on each program aircraft is 74238  
eight hundred dollars. In the case of a sale of a fractional 74239  
interest that is less than one hundred per cent of the program 74240  
aircraft, the tax charged on the transaction shall be eight 74241  
hundred dollars multiplied by a fraction, the numerator of which 74242  
is the percentage of ownership or possession in the aircraft being 74243  
purchased in the transaction, and the denominator of which is one 74244  
hundred per cent. 74245

(2) Notwithstanding any other provision of law to the 74246  
contrary, the tax calculated under division (G)(1) of this section 74247  
and paid with respect to the sale of a fractional ownership 74248  
program aircraft used primarily in a fractional aircraft ownership 74249  
program shall be credited to the general revenue fund. 74250

**Sec. 5739.026.** (A) A board of county commissioners may levy a 74251  
tax of one-fourth or one-half of one per cent on every retail sale 74252  
in the county, except sales of watercraft and outboard motors 74253  
required to be titled pursuant to Chapter 1548. of the Revised 74254  
Code and sales of motor vehicles, and may increase an existing 74255  
rate of one-fourth of one per cent to one-half of one per cent, to 74256  
pay the expenses of administering the tax and, except as provided 74257  
in division (A)(6) of this section, for any one or more of the 74258  
following purposes provided that the aggregate levy for all such 74259  
purposes does not exceed one-half of one per cent: 74260

(1) To provide additional revenues for the payment of bonds 74261  
or notes issued in anticipation of bonds issued by a convention 74262  
facilities authority established by the board of county 74263  
commissioners under Chapter 351. of the Revised Code and to 74264  
provide additional operating revenues for the convention 74265  
facilities authority; 74266

(2) To provide additional revenues for a transit authority 74267  
operating in the county; 74268

(3) To provide additional revenue for the county's general fund; 74269  
74270

(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; 74271  
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(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements; 74276  
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(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition. 74286  
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If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also 74298  
74299

shall levy the tax or increase the rate of the tax for one or more 74300  
of the purposes described in divisions (A)(1) to (5) of this 74301  
section and shall prescribe the method for allocating the revenues 74302  
from the tax each year in the manner required by division (C) of 74303  
this section. 74304

(7) To provide additional revenue for the operation or 74305  
maintenance of a detention facility, as that term is defined under 74306  
division (F) of section 2921.01 of the Revised Code; 74307

(8) To provide revenue to finance the construction or 74308  
renovation of a sports facility, but only if the tax is levied for 74309  
that purpose in the manner prescribed by section 5739.028 of the 74310  
Revised Code. 74311

As used in division (A)(8) of this section: 74312

(a) "Sports facility" means a facility intended to house 74313  
major league professional athletic teams. 74314

(b) "Constructing" or "construction" includes providing 74315  
fixtures, furnishings, and equipment. 74316

(9) To provide additional revenue for the acquisition of 74317  
agricultural easements, as defined in section 5301.67 of the 74318  
Revised Code; to pay principal, interest, and premium on bonds 74319  
issued under section 133.60 of the Revised Code; and for the 74320  
supervision and enforcement of agricultural easements held by the 74321  
county. 74322

Pursuant to section 755.171 of the Revised Code, a board of 74323  
county commissioners may pledge and contribute revenue from a tax 74324  
levied for the purpose of division (A)(5) of this section to the 74325  
payment of debt charges on bonds issued under section 755.17 of 74326  
the Revised Code. 74327

The rate of tax shall be a multiple of one-fourth of one per 74328  
cent, unless a portion of the rate of an existing tax levied under 74329

section 5739.023 of the Revised Code has been reduced, and the 74330  
rate of tax levied under this section has been increased, pursuant 74331  
to section 5739.028 of the Revised Code, in which case the 74332  
aggregate of the rates of tax levied under this section and 74333  
section 5739.023 of the Revised Code shall be a multiple of 74334  
one-fourth of one per cent. The tax shall be levied and the rate 74335  
increased pursuant to a resolution adopted by a majority of the 74336  
members of the board. The board shall deliver a certified copy of 74337  
the resolution to the tax commissioner, not later than the 74338  
sixty-fifth day prior to the date on which the tax is to become 74339  
effective, which shall be the first day of a calendar quarter. 74340

Prior to the adoption of any resolution to levy the tax or to 74341  
increase the rate of tax exclusively for the purpose set forth in 74342  
division (A)(3) of this section, the board of county commissioners 74343  
shall conduct two public hearings on the resolution, the second 74344  
hearing to be no fewer than three nor more than ten days after the 74345  
first. Notice of the date, time, and place of the hearings shall 74346  
be given by publication in a newspaper of general circulation in 74347  
the county once a week on the same day of the week for two 74348  
consecutive weeks, the second publication being no fewer than ten 74349  
nor more than thirty days prior to the first hearing. Except as 74350  
provided in division (E) of this section, the resolution shall 74351  
~~become effective on the first day of a calendar quarter following~~ 74352  
~~the expiration of sixty days from the date of its adoption, be~~ 74353  
subject to a referendum as provided in sections 305.31 to 305.41 74354  
of the Revised Code. If the resolution is adopted as an emergency 74355  
measure necessary for the immediate preservation of the public 74356  
peace, health, or safety, it must receive an affirmative vote of 74357  
all of the members of the board of county commissioners and shall 74358  
state the reasons for the necessity. 74359

If the tax is for more than one of the purposes set forth in 74360  
divisions (A)(1) to (7) and (9) of this section or is exclusively 74361

for one of the purposes set forth in division (A)(1), (2), (4), 74362  
(5), (6), (7), or (9) of this section, the resolution shall not go 74363  
into effect unless it is approved by a majority of the electors 74364  
voting on the question of the tax. 74365

(B) The board of county commissioners shall adopt a 74366  
resolution under section 351.02 of the Revised Code creating the 74367  
convention facilities authority, or under section 307.283 of the 74368  
Revised Code creating the community improvements board, before 74369  
adopting a resolution levying a tax for the purpose of a 74370  
convention facilities authority under division (A)(1) of this 74371  
section or for the purpose of a community improvements board under 74372  
division (A)(4) of this section. 74373

(C)(1) If the tax is to be used for more than one of the 74374  
purposes set forth in divisions (A)(1) to (7) and (9) of this 74375  
section, the board of county commissioners shall establish the 74376  
method that will be used to determine the amount or proportion of 74377  
the tax revenue received by the county during each year that will 74378  
be distributed for each of those purposes, including, if 74379  
applicable, provisions governing the reallocation of a convention 74380  
facilities authority's allocation if the authority is dissolved 74381  
while the tax is in effect. The allocation method may provide that 74382  
different proportions or amounts of the tax shall be distributed 74383  
among the purposes in different years, but it shall clearly 74384  
describe the method that will be used for each year. Except as 74385  
otherwise provided in division (C)(2) of this section, the 74386  
allocation method established by the board is not subject to 74387  
amendment during the life of the tax. 74388

(2) Subsequent to holding a public hearing on the proposed 74389  
amendment, the board of county commissioners may amend the 74390  
allocation method established under division (C)(1) of this 74391  
section for any year, if the amendment is approved by the 74392  
governing board of each entity whose allocation for the year would 74393

be reduced by the proposed amendment. In the case of a tax that is 74394  
levied for a continuing period of time, the board may not so amend 74395  
the allocation method for any year before the sixth year that the 74396  
tax is in effect. 74397

(a) If the additional revenues provided to the convention 74398  
facilities authority are pledged by the authority for the payment 74399  
of convention facilities authority revenue bonds for as long as 74400  
such bonds are outstanding, no reduction of the authority's 74401  
allocation of the tax shall be made for any year except to the 74402  
extent that the reduced authority allocation, when combined with 74403  
the authority's other revenues pledged for that purpose, is 74404  
sufficient to meet the debt service requirements for that year on 74405  
such bonds. 74406

(b) If the additional revenues provided to the county are 74407  
pledged by the county for the payment of bonds or notes described 74408  
in division (A)(4) or (5) of this section, for as long as such 74409  
bonds or notes are outstanding, no reduction of the county's or 74410  
the community improvements board's allocation of the tax shall be 74411  
made for any year, except to the extent that the reduced county or 74412  
community improvements board allocation is sufficient to meet the 74413  
debt service requirements for that year on such bonds or notes. 74414

(c) If the additional revenues provided to the transit 74415  
authority are pledged by the authority for the payment of revenue 74416  
bonds issued under section 306.37 of the Revised Code, for as long 74417  
as such bonds are outstanding, no reduction of the authority's 74418  
allocation of tax shall be made for any year, except to the extent 74419  
that the authority's reduced allocation, when combined with the 74420  
authority's other revenues pledged for that purpose, is sufficient 74421  
to meet the debt service requirements for that year on such bonds. 74422

(d) If the additional revenues provided to the county are 74423  
pledged by the county for the payment of bonds or notes issued 74424  
under section 133.60 of the Revised Code, for so long as the bonds 74425

or notes are outstanding, no reduction of the county's allocation 74426  
of the tax shall be made for any year, except to the extent that 74427  
the reduced county allocation is sufficient to meet the debt 74428  
service requirements for that year on the bonds or notes. 74429

(D)(1) The resolution levying the tax or increasing the rate 74430  
of tax shall state the rate of the tax or the rate of the 74431  
increase; the purpose or purposes for which it is to be levied; 74432  
the number of years for which it is to be levied or that it is for 74433  
a continuing period of time; the allocation method required by 74434  
division (C) of this section; and if required to be submitted to 74435  
the electors of the county under division (A) of this section, the 74436  
date of the election at which the proposal shall be submitted to 74437  
the electors of the county, which shall be not less than 74438  
seventy-five days after the certification of a copy of the 74439  
resolution to the board of elections and, if the tax is to be 74440  
levied exclusively for the purpose set forth in division (A)(3) of 74441  
this section, shall not occur in February or August of any year. 74442  
Upon certification of the resolution to the board of elections, 74443  
the board of county commissioners shall notify the tax 74444  
commissioner in writing of the levy question to be submitted to 74445  
the electors. If approved by a majority of the electors, the tax 74446  
shall become effective on the first day of a calendar quarter next 74447  
following the ~~sixtieth~~ sixty-fifth day following the ~~certification~~ 74448  
~~of the results of the election to~~ date the board of county 74449  
commissioners and ~~the~~ tax commissioner ~~by~~ receive from the board 74450  
of elections the certification of the results of the election, 74451  
except as provided in division (E) of this section. 74452

(2)(a) A resolution specifying that the tax is to be used 74453  
exclusively for the purpose set forth in division (A)(3) of this 74454  
section that is not adopted as an emergency measure may direct the 74455  
board of elections to submit the question of levying the tax or 74456  
increasing the rate of the tax to the electors of the county at a 74457

special election held on the date specified by the board of county 74458  
commissioners in the resolution, provided that the election occurs 74459  
not less than seventy-five days after the resolution is certified 74460  
to the board of elections and the election is not held in February 74461  
or August of any year. Upon certification of the resolution to the 74462  
board of elections, the board of county commissioners shall notify 74463  
the tax commissioner in writing of the levy question to be 74464  
submitted to the electors. No resolution adopted under division 74465  
(D)(2)(a) of this section shall go into effect unless approved by 74466  
a majority of those voting upon it and, except as provided in 74467  
division (E) of this section, not until the first day of a 74468  
calendar quarter following the expiration of sixty-five days from 74469  
the date ~~of the notice to~~ the tax commissioner ~~by~~ receives notice  
from the board of elections of the affirmative vote. 74470  
74471

(b) A resolution specifying that the tax is to be used 74472  
exclusively for the purpose set forth in division (A)(3) of this 74473  
section that is adopted as an emergency measure shall become 74474  
effective as provided in division (A) of this section, but may 74475  
direct the board of elections to submit the question of repealing 74476  
the tax or increase in the rate of the tax to the electors of the 74477  
county at the next general election in the county occurring not 74478  
less than seventy-five days after the resolution is certified to 74479  
the board of elections. Upon certification of the resolution to 74480  
the board of elections, the board of county commissioners shall 74481  
notify the tax commissioner in writing of the levy question to be 74482  
submitted to the electors. The ballot question shall be the same 74483  
as that prescribed in section 5739.022 of the Revised Code. The 74484  
board of elections shall notify the board of county commissioners 74485  
and the tax commissioner of the result of the election immediately 74486  
after the result has been declared. If a majority of the qualified 74487  
electors voting on the question of repealing the tax or increase 74488  
in the rate of the tax vote for repeal of the tax or repeal of the 74489  
increase, the board of county commissioners, on the first day of a 74490

calendar quarter following the expiration of sixty-five days after 74491  
the date ~~it~~ the board and tax commissioner received notice of the 74492  
result of the election, shall, in the case of a repeal of the tax, 74493  
cease to levy the tax, or, in the case of a repeal of an increase 74494  
in the rate of the tax, cease to levy the increased rate and levy 74495  
the tax at the rate at which it was imposed immediately prior to 74496  
the increase in rate. 74497

(c) A board of county commissioners, by resolution, may 74498  
reduce the rate of a tax levied exclusively for the purpose set 74499  
forth in division (A)(3) of this section to a lower rate 74500  
authorized by this section. Any such reduction shall be made 74501  
effective on the first day of the calendar quarter ~~specified in~~ 74502  
~~the resolution, but not sooner than the first day of the month~~ 74503  
next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution~~ 74504  
~~is certified to the~~ tax commissioner receives a certified copy of 74505  
the resolution from the board. 74506

(E) If a vendor that is registered with the central 74507  
electronic registration system provided for in section 5740.05 of 74508  
the Revised Code makes a sale in this state by printed catalog and 74509  
the consumer computed the tax on the sale based on local rates 74510  
published in the catalog, any tax levied or repealed or rate 74511  
changed under this section shall not apply to such a sale until 74512  
the first day of a calendar quarter following the expiration of 74513  
one hundred twenty days from the date of notice by the tax 74514  
commissioner ~~to the vendor, or to the vendor's certified service~~ 74515  
~~provider, if the vendor has selected one~~ pursuant to division (G) 74516  
of this section. 74517

(F) The tax levied pursuant to this section shall be in 74518  
addition to the tax levied by section 5739.02 of the Revised Code 74519  
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74520  
Revised Code. 74521

A county that levies a tax pursuant to this section shall 74522

levy a tax at the same rate pursuant to section 5741.023 of the Revised Code. 74523  
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The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. 74525  
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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. 74527  
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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. 74532  
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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: 74542  
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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 74549  
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and at the same time as the price; 74554

(B) If the price is otherwise paid or to be paid, the vendor 74555  
or the vendor's agent shall, at or prior to the provision of the 74556  
service or the delivery of possession of the thing sold to the 74557  
consumer, charge the tax imposed by or pursuant to section 74558  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74559  
the account of the consumer, which amount shall be collected by 74560  
the vendor from the consumer in addition to the price. Such sale 74561  
shall be reported on and the amount of the tax applicable thereto 74562  
shall be remitted with the return for the period in which the sale 74563  
is made, and the amount of the tax shall become a legal charge in 74564  
favor of the vendor and against the consumer. 74565

If any sale is claimed to be exempt under division (E) of 74566  
section 5739.01 of the Revised Code or under section 5739.02 of 74567  
the Revised Code, with the exception of divisions (B)(1) to (11) 74568  
or (28) of section 5739.02 of the Revised Code, the consumer must 74569  
furnish to the vendor, and the vendor must obtain from the 74570  
consumer, a certificate specifying the reason that the sale is not 74571  
legally subject to the tax. If the transaction is claimed to be 74572  
exempt under division (B)(13) of section 5739.02 of the Revised 74573  
Code, the exemption certificate shall be signed by both the 74574  
contractor and the contractee and such contractee shall be deemed 74575  
to be the consumer of all items purchased under such claim of 74576  
exemption in the event it is subsequently determined that the 74577  
exemption is not properly claimed. The certificate shall be in 74578  
such form as the tax commissioner by regulation prescribes. If no 74579  
certificate is furnished or obtained within the period for filing 74580  
the return for the period in which such sale is consummated, it 74581  
shall be presumed that the tax applies. ~~The~~ Failure to have so 74582  
furnished, or to have so obtained, a certificate shall not prevent 74583  
a vendor or consumer from establishing that the sale is not 74584  
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 74585

the giving of notice by the commissioner of intention to levy an ~~assassment~~ assessment, in which event the tax shall not apply. 74586  
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Certificates need not be obtained nor furnished where the 74588  
identity of the consumer is such that the transaction is never 74589  
subject to the tax imposed or where the item of tangible personal 74590  
property sold or the service provided is never subject to the tax 74591  
imposed, regardless of use, or when the sale is in interstate 74592  
commerce. 74593

(C) As used in this division, "contractee" means a person who 74594  
seeks to enter or enters into a contract or agreement with a 74595  
contractor or vendor for the construction of real property or for 74596  
the sale and installation onto real property of tangible personal 74597  
property. 74598

Any contractor or vendor may request from any contractee a 74599  
certification of what portion of the property to be transferred 74600  
under such contract or agreement is to be incorporated into the 74601  
realty and what portion will retain its status as tangible 74602  
personal property after installation is completed. The contractor 74603  
or vendor shall request the certification by certified mail 74604  
delivered to the contractee, return receipt requested. Upon 74605  
receipt of such request and prior to entering into the contract or 74606  
agreement, the contractee shall furnish to the contractor or 74607  
vendor a certification sufficiently detailed to enable the 74608  
contractor or vendor to ascertain the resulting classification of 74609  
all materials purchased or fabricated by the contractor or vendor 74610  
and transferred to the contractee. This requirement applies to a 74611  
contractee regardless of whether the contractee holds a direct 74612  
payment permit under section 5739.031 of the Revised Code or 74613  
furnishes to the contractor or vendor an exemption certificate as 74614  
provided under this section. 74615

For the purposes of the taxes levied by this chapter and 74616  
Chapter 5741. of the Revised Code, the contractor or vendor may in 74617

good faith rely on the contractee's certification. Notwithstanding 74618  
division (B) of section 5739.01 of the Revised Code, if the tax 74619  
commissioner determines that certain property certified by the 74620  
contractee as tangible personal property pursuant to this division 74621  
is, in fact, real property, the contractee shall be considered to 74622  
be the consumer of all materials so incorporated into that real 74623  
property and shall be liable for the applicable tax, and the 74624  
contractor or vendor shall be excused from any liability on those 74625  
materials. 74626

If a contractee fails to provide such certification upon the 74627  
request of the contractor or vendor, the contractor or vendor 74628  
shall comply with the provisions of this chapter and Chapter 5741. 74629  
of the Revised Code without the certification. If the tax 74630  
commissioner determines that such compliance has been performed in 74631  
good faith and that certain property treated as tangible personal 74632  
property by the contractor or vendor is, in fact, real property, 74633  
the contractee shall be considered to be the consumer of all 74634  
materials so incorporated into that real property and shall be 74635  
liable for the applicable tax and the construction contractor or 74636  
vendor shall be excused from any liability on those materials. 74637

This division does not apply to any contract or agreement 74638  
where the tax commissioner determines as a fact that a 74639  
certification under this division was made solely on the decision 74640  
or advice of the contractor or vendor. 74641

(D) Notwithstanding division (B) of section 5739.01 of the 74642  
Revised Code, whenever the total rate of tax imposed under this 74643  
chapter is increased after the date after a construction contract 74644  
is entered into, the contractee shall reimburse the construction 74645  
contractor for any additional tax paid on tangible property 74646  
consumed or services received pursuant to the contract. 74647

(E) A vendor who files a petition for reassessment contesting 74648  
the assessment of tax on sales for which the vendor obtained no 74649

valid exemption certificates and for which the vendor failed to 74650  
establish that the sales were properly not subject to the tax 74651  
during the one-hundred-twenty-day period allowed under division 74652  
(B) of this section, may present to the tax commissioner 74653  
additional evidence to prove that the sales were properly subject 74654  
to a claim of exception or exemption. The vendor shall file such 74655  
evidence within ninety days of the receipt by the vendor of the 74656  
notice of assessment, except that, upon application and for 74657  
reasonable cause, the period for submitting such evidence shall be 74658  
extended thirty days. 74659

The commissioner shall consider such additional evidence in 74660  
reaching the final determination on the assessment and petition 74661  
for reassessment. 74662

(F) Whenever a vendor refunds to the consumer the full price 74663  
of an item of tangible personal property on which the tax imposed 74664  
under this chapter has been paid, the vendor shall also refund the 74665  
full amount of the tax paid. 74666

**Sec. 5739.032.** (A) If the total amount of tax required to be 74667  
paid by a permit holder under section 5739.031 of the Revised Code 74668  
for any calendar year ~~indicated in the following schedule~~ equals 74669  
or exceeds ~~the amounts prescribed for that year in the schedule~~ 74670  
seventy-five thousand dollars, the permit holder shall remit each 74671  
monthly tax payment in the second ensuing and each succeeding year 74672  
by electronic funds transfer as prescribed by division (B) of this 74673  
section. 74674

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	
Tax payment	\$1,200,000	\$600,000	\$60,000	74676

If a permit holder's tax payment for each of two consecutive 74677  
years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 74678  
dollars, the permit holder is relieved of the requirement to remit 74679  
taxes by electronic funds transfer for the year that next follows 74680

the second of the consecutive years in which the tax payment is 74681  
less than ~~sixty thousand dollars~~ that amount, and is relieved of 74682  
that requirement for each succeeding year, unless the tax payment 74683  
in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 74684  
dollars. 74685

The tax commissioner shall notify each permit holder required 74686  
to remit taxes by electronic funds transfer of the permit holder's 74687  
obligation to do so, shall maintain an updated list of those 74688  
permit holders, and shall timely certify the list and any 74689  
additions thereto or deletions therefrom to the treasurer of 74690  
state. Failure by the tax commissioner to notify a permit holder 74691  
subject to this section to remit taxes by electronic funds 74692  
transfer does not relieve the permit holder of its obligation to 74693  
remit taxes by electronic funds transfer. 74694

(B) Permit holders required by division (A) of this section 74695  
to remit payments by electronic funds transfer shall remit such 74696  
payments to the treasurer of state in the manner prescribed by 74697  
this section and rules adopted by the treasurer of state under 74698  
section 113.061 of the Revised Code, and on or before the 74699  
following dates: 74700

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 74701  
and twenty-fifth days of each month, a permit holder shall remit 74702  
an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent 74703  
of the permit holder's total tax liability for the same month in 74704  
the preceding calendar year. 74705

(2) On or before the twenty-third day of each month, a permit 74706  
holder shall report the taxes due for the previous month and shall 74707  
remit that amount, less any amounts paid for that month as 74708  
required by division (B)(1) of this section. 74709

The payment of taxes by electronic funds transfer does not 74710  
affect a permit holder's obligation to file the monthly return as 74711

required under section 5739.031 of the Revised Code. 74712

(C) A permit holder required by this section to remit taxes 74713  
by electronic funds transfer may apply to the treasurer of state 74714  
in the manner prescribed by the treasurer of state to be excused 74715  
from that requirement. The treasurer of state may excuse the 74716  
permit holder from remittance by electronic funds transfer for 74717  
good cause shown for the period of time requested by the permit 74718  
holder or for a portion of that period. The treasurer of state 74719  
shall notify the tax commissioner and the permit holder of the 74720  
treasurer of state's decision as soon as is practicable. 74721

(D)(1) If a permit holder that is required to remit payments 74722  
under division (B) of this section fails to make a payment, the 74723  
commissioner may impose an additional charge not to exceed five 74724  
per cent of that unpaid amount. 74725

(2) If a permit holder required by this section to remit 74726  
taxes by electronic funds transfer remits those taxes by some 74727  
means other than by electronic funds transfer as prescribed by 74728  
this section and the rules adopted by the treasurer of state, and 74729  
the tax commissioner determines that such failure was not due to 74730  
reasonable cause or was due to willful neglect, the commissioner 74731  
may impose an additional charge not to exceed the lesser of five 74732  
per cent of the amount of the taxes required to be paid by 74733  
electronic funds transfer or five thousand dollars. 74734

(3) Any additional charge imposed under division (D)(1) or 74735  
(2) of this section is in addition to any other penalty or charge 74736  
imposed under this chapter, and shall be considered as revenue 74737  
arising from taxes imposed under this chapter. An additional 74738  
charge may be collected by assessment in the manner prescribed by 74739  
section 5739.13 of the Revised Code. The tax commissioner may 74740  
waive all or a portion of such a charge and may adopt rules 74741  
governing such waiver. 74742

No additional charge shall be imposed under division (D)(2) 74743  
of this section against a permit holder that has been notified of 74744  
its obligation to remit taxes under this section and that remits 74745  
its first two tax payments after such notification by some means 74746  
other than electronic funds transfer. The additional charge may be 74747  
imposed upon the remittance of any subsequent tax payment that the 74748  
permit holder remits by some means other than electronic funds 74749  
transfer. 74750

**Sec. 5739.033.** The amount of tax due pursuant to sections 74751  
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 74752  
the sum of the taxes imposed pursuant to those sections at the 74753  
situs of the sale as determined under this section or, if 74754  
applicable, under division (C) of section 5739.031 of the Revised 74755  
Code. 74756

(A) Except as otherwise provided in this section, division 74757  
(C) of section 5739.031, and section 5739.034 of the Revised Code, 74758  
the situs of all sales is the vendor's place of business. 74759

(1) If the consumer or the consumer's agent takes possession 74760  
of the tangible personal property at a place of business of the 74761  
vendor where the purchase contract or agreement was made, the 74762  
situs of the sale is that place of business. 74763

(2) If the consumer or the consumer's agent takes possession 74764  
of the tangible personal property other than at a place of 74765  
business of the vendor, or takes possession at a warehouse or 74766  
similar facility of the vendor, the situs of the sale is the 74767  
vendor's place of business where the purchase contract or 74768  
agreement was made or the purchase order was received. 74769

(3) If the vendor provides a service specified in division 74770  
(B)(3)(a), (b), (c), (d), (n), ~~or~~ (o), (r), (s), or (t) of section 74771  
5739.01 or makes a sale specified in division (B)(8) of section 74772

5739.01 of the Revised Code, the situs of the sale is the vendor's 74773  
place of business where the service is performed or the contract 74774  
or agreement for the service was made or the purchase order was 74775  
received. 74776

(B) If the vendor is a transient vendor as specified in 74777  
division (B) of section 5739.17 of the Revised Code, the situs of 74778  
the sale is the vendor's temporary place of business or, if the 74779  
transient vendor is the lessor of titled motor vehicles, titled 74780  
watercraft, or titled outboard motors, at the location where the 74781  
lessee keeps the leased property. 74782

(C) If the vendor makes sales of tangible personal property 74783  
from a stock of goods carried in a motor vehicle, from which the 74784  
purchaser makes selection and takes possession, or from which the 74785  
vendor sells tangible personal property the quantity of which has 74786  
not been determined prior to the time the purchaser takes 74787  
possession, the situs of the sale is the location of the motor 74788  
vehicle when the sale is made. 74789

(D) If the vendor is a delivery vendor as specified in 74790  
division (D) of section 5739.17 of the Revised Code, the situs of 74791  
the sale is the place where the tangible personal property is 74792  
delivered, where the leased property is used, or where the service 74793  
is performed or received. 74794

(E) If the vendor provides a service specified in division 74795  
(B)(3)(e), (g), (h), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 74796  
5739.01 of the Revised Code, the situs of the sale is the location 74797  
of the consumer where the service is performed or received. 74798

(F) ~~Except as provided in division (I) or (J) of this~~ 74799  
~~section:~~ 74800

~~(1) If the vendor provides a service specified in division 74801  
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 74802  
of the sale is the location of the telephone number or account as 74803~~

~~reflected in the records of the vendor.~~ 74804

~~(2) In the case of a telecommunications service, if the 74805  
telephone number or account is located outside this state, the 74806  
situs of the sale is the location in this state from which the 74807  
service originated.~~ 74808

~~(G) If the vendor provides lodging to transient guests as 74809  
specified in division (B)(2) of section 5739.01 of the Revised 74810  
Code, the situs of the sale is the location where the lodging is 74811  
located.~~ 74812

~~(H)(G) If the vendor sells a warranty, maintenance or service 74813  
contract, or similar agreement as specified in division (B)(7) of 74814  
section 5739.01 of the Revised Code and the vendor is a delivery 74815  
vendor, the situs of the sale is the location of the consumer. If 74816  
the vendor is not a delivery vendor, the situs of the sale is the 74817  
vendor's place of business where the contract or agreement was 74818  
made, unless the warranty or contract is a component of the sale 74819  
of a titled motor vehicle, titled watercraft, or titled outboard 74820  
motor, in which case the situs of the sale is the county of 74821  
titling.~~ 74822

~~(I) Except as otherwise provided in this division, if the 74823  
vendor sells a prepaid authorization number or a prepaid telephone 74824  
calling card, the situs of the sale is the vendor's place of 74825  
business and shall be taxed at the time of sale. If the vendor 74826  
sells a prepaid authorization number or prepaid telephone calling 74827  
card through a telephone call, electronic commerce, or any other 74828  
form of remote commerce, the situs of the sale is the consumer's 74829  
shipping address, or, if there is no item shipped, at the 74830  
consumer's billing address.~~ 74831

**Sec. 5739.034.** (A) As used in this section: 74832

(1) "Air-to-ground radiotelephone service" means a radio 74833

service, as defined in 47 C.F.R. 22.99, in which common carriers 74834  
are authorized to offer and provide radio telecommunications 74835  
service for hire to subscribers in aircraft. 74836

(2) "Call-by-call basis" means any method of charging for 74837  
telecommunications services where the price is measured by 74838  
individual calls. 74839

(3) "Customer" means the person or entity that contracts with 74840  
a seller of telecommunications service. If the end user of 74841  
telecommunications service is not the contracting party, the end 74842  
user of the telecommunications service is the customer of the 74843  
telecommunications service. "Customer" does not include a reseller 74844  
of telecommunications service or of mobile telecommunications 74845  
service of a serving carrier under an agreement to serve the 74846  
customer outside the home service provider's licensed service 74847  
area. 74848

(4) "End user" means the person who utilizes the 74849  
telecommunications service. In the case of a person other than an 74850  
individual, "end user" means the individual who utilizes the 74851  
service on behalf of the person. 74852

(5) "Home service provider" has the same meaning as in the 74853  
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 74854  
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74855

(6) "Place of primary use" means the street address 74856  
representative of where the customer's use of the 74857  
telecommunications service primarily occurs, which must be the 74858  
residential street address or the primary business street address 74859  
of the customer. In the case of mobile telecommunications 74860  
services, "place of primary use" must be within the licensed 74861  
service area of the home service provider. 74862

(7) "Post-paid calling service" means the telecommunications 74863  
service obtained by making a payment on a call-by-call basis 74864

either through the use of a credit card or payment mechanism such 74865  
as a bank card, travel card, credit card, or debit card, or by 74866  
charge made to a telephone number that is not associated with the 74867  
origination or termination of the telecommunications service. 74868  
"Post-paid calling service" includes a telecommunications service 74869  
that would be a prepaid calling service, but for the fact that it 74870  
is not exclusively a telecommunications service. 74871

(8) "Prepaid calling service" means the right to access 74872  
exclusively a telecommunications service that must be paid for in 74873  
advance, that enables the origination of calls using an access 74874  
number or authorization code, whether manually or electronically 74875  
dialed, and that is sold in predetermined units or dollars of 74876  
which the number declines with use in a known amount. 74877

(9) "Service address" means: 74878

(a) The location of the telecommunications equipment to which 74879  
a customer's call is charged and from which the call originates or 74880  
terminates, regardless of where the call is billed or paid. 74881

(b) If the location in division (A)(9)(a) of this section is 74882  
not known, "service address" means the origination point of the 74883  
signal of the telecommunications service first identified by 74884  
either the seller's telecommunications system or in information 74885  
received by the seller from its service provider, where the system 74886  
used to transport such signals is not that of the seller. 74887

(c) If the locations in divisions (A)(9)(a) and (b) of this 74888  
section are not known, "service address" means the location of the 74889  
customer's place of primary use. 74890

(B) The amount of tax due pursuant to sections 5739.02, 74891  
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 74892  
telecommunications service, information service, or mobile 74893  
telecommunications service, is the sum of the taxes imposed 74894  
pursuant to those sections at the sourcing location of the sale as 74895

determined under this section. 74896

(C) Except for the telecommunications services described in 74897  
division (E) of this section, the sale of telecommunications 74898  
service sold on a call-by-call basis shall be sourced to each 74899  
level of taxing jurisdiction where the call originates and 74900  
terminates in that jurisdiction, or each level of taxing 74901  
jurisdiction where the call either originates or terminates and in 74902  
which the service address also is located. 74903

(D) Except for the telecommunications services described in 74904  
division (E) of this section, a sale of telecommunications 74905  
services sold on a basis other than a call-by-call basis shall be 74906  
sourced to the customer's place of primary use. 74907

(E) The sale of the following telecommunications services 74908  
shall be sourced to each level of taxing jurisdiction, as follows: 74909

(1) A sale of mobile telecommunications service, other than 74910  
air-to-ground radiotelephone service and prepaid calling service, 74911  
shall be sourced to the customer's place of primary use as 74912  
required by the Mobile Telecommunications Sourcing Act. 74913

(2) A sale of post-paid calling service shall be sourced to 74914  
the origination point of the telecommunications signal as first 74915  
identified by the service provider's telecommunications system, or 74916  
information received by the seller from its service provider, 74917  
where the system used to transport such signals is not that of the 74918  
seller. 74919

(3) A sale of prepaid calling service shall be sourced under 74920  
section 5739.033 of the Revised Code; but in the case of a sale of 74921  
mobile telecommunications service that is a prepaid 74922  
telecommunications service, in lieu of sourcing the service under 74923  
division (A)(5) of section 5739.033 of the Revised Code, the 74924  
service may be sourced to the location associated with the mobile 74925  
telephone number. 74926

**Sec. 5739.10.** (A) In addition to the tax levied ~~in~~ by section 74927  
5739.02 of the Revised Code and any tax levied pursuant to section 74928  
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 74929  
the same objectives specified in ~~said those~~ sections, there is 74930  
hereby levied upon the privilege of engaging in the business of 74931  
making retail sales, an excise tax of five per cent, or, in the 74932  
case of retail sales subject to a tax levied pursuant to section 74933  
5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage 74934  
equal to the aggregate rate of such taxes and the tax levied by 74935  
section 5739.02 of the Revised Code of the receipts derived from 74936  
all retail sales, ~~except retail sales under sixteen cents and~~ 74937  
those to which the excise tax imposed by section 5739.02 of the 74938  
Revised Code is made inapplicable by division (B) of ~~said that~~ 74939  
section. 74940

(B) For the purpose of this section, ~~no~~ vendor shall be 74941  
required to maintain records of ~~individual retail sales of~~ 74942  
~~tangible personal property under sixteen cents or~~ sales of food 74943  
for human consumption off the premises where sold, and no 74944  
assessment shall be made against any vendor for ~~retail sales of~~ 74945  
~~less than sixteen cents or for~~ sales of food for human consumption 74946  
off the premises where sold, solely because the vendor has no 74947  
records of, or has inadequate records of, ~~retail sales of less~~ 74948  
~~than sixteen cents or such~~ sales of food for human consumption off 74949  
~~the premises where sold~~; provided that where a vendor does not 74950  
have adequate records of receipts from ~~his retail sales in excess~~ 74951  
~~of fifteen cents or the vendor's~~ sales of food for human 74952  
consumption on the premises where sold, the tax commissioner may 74953  
refuse to accept the vendor's return and, upon the basis of test 74954  
checks of the vendor's business for a representative period, and 74955  
other information relating to the sales made by such vendor, 74956  
determine the proportion that taxable retail sales bear to all ~~his~~ 74957  
of the vendor's retail sales. The tax imposed by this section 74958

shall be determined by deducting from the sum representing five 74959  
per cent, or, in the case of retail sales subject to a tax levied 74960  
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 74961  
Code, a percentage equal to the aggregate rate of such taxes and 74962  
the tax levied by section 5739.02 of the Revised Code of the 74963  
receipts from such retail sales, the amount of tax paid to the 74964  
state or to a clerk of a court of common pleas. The section does 74965  
not affect any duty of the vendor under sections 5739.01 to 74966  
5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the 74967  
liability of any consumer to pay any tax imposed by or pursuant to 74968  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 74969  
Code. 74970

**Sec. 5739.12.** (A) Each person who has or is required to have 74971  
a vendor's license, on or before the twenty-third day of each 74972  
month, shall make and file a return for the preceding month, on 74973  
forms prescribed by the tax commissioner, and shall pay the tax 74974  
shown on the return to be due. The commissioner may require a 74975  
vendor that operates from multiple locations or has multiple 74976  
vendor's licenses to report all tax liabilities on one 74977  
consolidated return. The return shall show the amount of tax due 74978  
from the vendor to the state for the period covered by the return 74979  
and such other information as the commissioner deems necessary for 74980  
the proper administration of this chapter. The commissioner may 74981  
extend the time for making and filing returns and paying the tax, 74982  
and may require that the return for the last month of any annual 74983  
or semiannual period, as determined by the commissioner, be a 74984  
reconciliation return detailing the vendor's sales activity for 74985  
the preceding annual or semiannual period. The reconciliation 74986  
return shall be filed by the last day of the month following the 74987  
last month of the annual or semiannual period. The commissioner 74988  
may remit all or any part of amounts or penalties that may become 74989  
due under this chapter and may adopt rules relating thereto. Such 74990

return shall be filed by mailing it to the tax commissioner, 74991  
together with payment of the amount of tax shown to be due thereon 74992  
after deduction of any discount provided for under this section. 74993  
Remittance shall be made payable to the treasurer of state. The 74994  
return shall be considered filed when received by the tax 74995  
commissioner, and the payment shall be considered made when 74996  
received by the tax commissioner or when credited to an account 74997  
designated by the treasurer of state or the tax commissioner. 74998

(B) If the return is filed and the amount of tax shown 74999  
thereon to be due is paid on or before the date such return is 75000  
required to be filed, the vendor shall be entitled to a the 75001  
following discount ~~of three-fourths~~: 75002

(1) On and after July 1, 2003, and on and before June 30, 75003  
2005, one and one-tenth per cent of the amount shown to be due on 75004  
the return; 75005

(2) On and after July 1, 2005, three-fourths of one per cent 75006  
of the amount shown to be due on the return, ~~but a.~~ 75007

A vendor that has selected a certified service provider as 75008  
its agent shall not be entitled to the discount. Amounts paid to 75009  
the clerk of courts pursuant to section 4505.06 of the Revised 75010  
Code shall be subject to the ~~three-fourths of one per cent~~ 75011  
applicable discount. The discount shall be in consideration for 75012  
prompt payment to the clerk of courts and for other services 75013  
performed by the vendor in the collection of the tax. 75014

(C)(1) Upon application to the commissioner, a vendor who is 75015  
required to file monthly returns may be relieved of the 75016  
requirement to report and pay the actual tax due, provided that 75017  
the vendor agrees to remit to the tax commissioner payment of not 75018  
less than an amount determined by the commissioner to be the 75019  
average monthly tax liability of the vendor, based upon a review 75020  
of the returns or other information pertaining to such vendor for 75021

a period of not less than six months nor more than two years 75022  
immediately preceding the filing of the application. Vendors who 75023  
agree to the above conditions shall make and file an annual or 75024  
semiannual reconciliation return, as prescribed by the 75025  
commissioner. The reconciliation return shall be filed by mailing 75026  
or delivering it to the tax commissioner, together with payment of 75027  
the amount of tax shown to be due thereon after deduction of any 75028  
discount provided in this section. Remittance shall be made 75029  
payable to the treasurer of state. Failure of a vendor to comply 75030  
with any of the above conditions may result in immediate 75031  
reinstatement of the requirement of reporting and paying the 75032  
actual tax liability on each monthly return, and the commissioner 75033  
may at the commissioner's discretion deny the vendor the right to 75034  
report and pay based upon the average monthly liability for a 75035  
period not to exceed two years. The amount ascertained by the 75036  
commissioner to be the average monthly tax liability of a vendor 75037  
may be adjusted, based upon a review of the returns or other 75038  
information pertaining to the vendor for a period of not less than 75039  
six months nor more than two years preceding such adjustment. 75040

(2) The commissioner may authorize vendors whose tax 75041  
liability is not such as to merit monthly returns, as ascertained 75042  
by the commissioner upon the basis of administrative costs to the 75043  
state, to make and file returns at less frequent intervals. When 75044  
returns are filed at less frequent intervals in accordance with 75045  
such authorization, the vendor shall be allowed the discount ~~of~~ 75046  
~~three-fourths of one per cent~~ provided in this section in 75047  
consideration for prompt payment with the return, provided the 75048  
return is filed together with payment of the amount of tax shown 75049  
to be due thereon, at the time specified by the commissioner, but 75050  
a vendor that has selected a certified service provider as its 75051  
agent shall not be entitled to the discount. 75052

(D) Any vendor who fails to file a return or pay the full 75053

amount of the tax shown on the return to be due under this section 75054  
and the rules of the commissioner may, for each such return the 75055  
vendor fails to file or each such tax the vendor fails to pay in 75056  
full as shown on the return within the period prescribed by this 75057  
section and the rules of the commissioner, be required to forfeit 75058  
and pay into the state treasury an additional charge not exceeding 75059  
fifty dollars or ten per cent of the tax required to be paid for 75060  
the reporting period, whichever is greater, as revenue arising 75061  
from the tax imposed by this chapter, and such sum may be 75062  
collected by assessment in the manner provided in section 5739.13 75063  
of the Revised Code. The commissioner may remit all or a portion 75064  
of the additional charge and may adopt rules relating to the 75065  
imposition and remission of the additional charge. 75066

(E) If the amount required to be collected by a vendor from 75067  
consumers is in excess of ~~five per cent~~ the applicable percentage 75068  
of the vendor's receipts from sales that are taxable under section 75069  
5739.02 of the Revised Code, or in the case of sales subject to a 75070  
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75071  
the Revised Code, in excess of the percentage equal to the 75072  
aggregate rate of such taxes and the tax levied by section 5739.02 75073  
of the Revised Code, such excess shall be remitted along with the 75074  
remittance of the amount of tax due under section 5739.10 of the 75075  
Revised Code. 75076

(F) The commissioner, if the commissioner deems it necessary 75077  
in order to insure the payment of the tax imposed by this chapter, 75078  
may require returns and payments to be made for other than monthly 75079  
periods. The returns shall be signed by the vendor or the vendor's 75080  
authorized agent. 75081

(G) Any vendor required to file a return and pay the tax 75082  
under this section, whose total payment ~~in any year indicated in~~ 75083  
~~division (A) of section 5739.122 of the Revised Code~~ equals or 75084  
exceeds the amount shown in ~~that~~ division (A) of section 5739.122 75085

of the Revised Code, shall make each payment required by this 75086  
section in the second ensuing and each succeeding year by 75087  
electronic funds transfer as prescribed by, and on or before the 75088  
dates specified in, section 5739.122 of the Revised Code, except 75089  
as otherwise prescribed by that section. For a vendor that 75090  
operates from multiple locations or has multiple vendor's 75091  
licenses, in determining whether the vendor's total payment equals 75092  
or exceeds the amount shown in division (A) of that section, the 75093  
vendor's total payment amount shall be the amount of the vendor's 75094  
total tax liability for the previous calendar year for all of the 75095  
vendor's locations or licenses. 75096

**Sec. 5739.121.** (A) As used in this section, "bad debt" means 75097  
any debt that has become worthless or uncollectible in the time 75098  
period between a vendor's preceding return and the present return, 75099  
~~have~~ has been uncollected for at least six months, and that may be 75100  
claimed as a deduction pursuant to the "Internal Revenue Code of 75101  
1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations 75102  
adopted pursuant thereto, or that could be claimed as such a 75103  
deduction if the vendor kept accounts on an accrual basis. "Bad 75104  
debt" does not include any interest or sales tax on the purchase 75105  
price, uncollectible amounts on property that remains in the 75106  
possession of the vendor until the full purchase price is paid, 75107  
expenses incurred in attempting to collect any account receivable 75108  
or for any portion of the debt recovered, ~~any accounts receivable~~ 75109  
~~that have been sold to a third party for collection,~~ and 75110  
repossessed property. 75111

(B) In computing taxable receipts for purposes of this 75112  
chapter, a vendor may deduct the amount of bad debts, ~~as defined~~ 75113  
~~in this section~~. The amount deducted must be charged off as 75114  
uncollectible on the books of the vendor. A deduction may be 75115  
claimed only with respect to bad debts on which the taxes pursuant 75116  
to sections 5739.10 and 5739.12 of the Revised Code were paid in a 75117

preceding tax period. If the vendor's business consists of taxable 75118  
and nontaxable transactions, the deduction shall equal the full 75119  
amount of the debt if the debt is documented as a taxable 75120  
transaction in the vendor's records. If no such documentation is 75121  
available, the maximum deduction on any bad debt shall equal the 75122  
amount of the bad debt multiplied by the quotient obtained by 75123  
dividing the sales taxed pursuant to this chapter during the 75124  
preceding calendar year by all sales during the preceding calendar 75125  
year, whether taxed or not. If a consumer or other person pays all 75126  
or part of a bad debt with respect to which a vendor claimed a 75127  
deduction under this section, the vendor shall be liable for the 75128  
amount of taxes deducted in connection with that portion of the 75129  
debt for which payment is received and shall remit such taxes in 75130  
the vendor's next payment to the tax commissioner. 75131

(C) Any claim for a bad debt deduction under this section 75132  
shall be supported by such evidence as the tax commissioner by 75133  
rule requires. The commissioner shall review any change in the 75134  
rate of taxation applicable to any taxable sales by a vendor 75135  
claiming a deduction pursuant to this section and adopt rules for 75136  
altering the deduction in the event of such a change in order to 75137  
ensure that the deduction on any bad debt does not result in the 75138  
vendor claiming the deduction recovering any more or less than the 75139  
taxes imposed on the sale that constitutes the bad debt. 75140

(D) In any reporting period in which the amount of bad debt 75141  
exceeds the amount of taxable sales for the period, the vendor may 75142  
file a refund claim for any tax collected on the bad debt in 75143  
excess of the tax reported on the return. The refund claim shall 75144  
be filed in the manner provided in section 5739.07 of the Revised 75145  
Code, except that the claim may be filed within four years of the 75146  
due date of the return on which the bad debt first could have been 75147  
claimed. 75148

(E) When the filing responsibilities of a vendor have been 75149

assumed by a certified service provider, the certified service 75150  
provider shall claim the bad debt allowance provided by this 75151  
section on behalf of the vendor. The certified service provider 75152  
shall credit or refund to the vendor the full amount of any bad 75153  
debt allowance or refund. 75154

(F) No person other than the vendor in the transaction that 75155  
generated the bad debt or, as provided in division (E) of this 75156  
section, a certified service provider, may claim the bad debt 75157  
allowance provided by this section. 75158

**Sec. 5739.122.** (A) If the total amount of tax required to be 75159  
paid by a vendor under section 5739.12 of the Revised Code for any 75160  
calendar year ~~indicated in the following schedule~~ equals or 75161  
exceeds ~~the amounts prescribed for that year in the schedule~~ 75162  
seventy-five thousand dollars, the vendor shall remit each monthly 75163  
tax payment in the second ensuing and each succeeding tax year by 75164  
electronic funds transfer as prescribed by divisions (B) and (C) 75165  
of this section. 75166

Year	<del>1992</del>	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	75167
Tax payment	\$1,200,000	\$600,000	\$60,000	75168

If a vendor's tax payment for each of two consecutive years 75169  
~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 75170  
dollars, the vendor is relieved of the requirement to remit taxes 75171  
by electronic funds transfer for the year that next follows the 75172  
second of the consecutive years in which the tax payment is less 75173  
than ~~sixty thousand dollars~~ that amount, and is relieved of that 75174  
requirement for each succeeding year, unless the tax payment in a 75175  
subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 75176  
dollars. 75177

The tax commissioner shall notify each vendor required to 75178  
remit taxes by electronic funds transfer of the vendor's 75179  
obligation to do so, shall maintain an updated list of those 75180

vendors, and shall timely certify the list and any additions 75181  
thereto or deletions therefrom to the treasurer of state. Failure 75182  
by the tax commissioner to notify a vendor subject to this section 75183  
to remit taxes by electronic funds transfer does not relieve the 75184  
vendor of its obligation to remit taxes by electronic funds 75185  
transfer. 75186

(B) Vendors required by division (A) of this section to remit 75187  
payments by electronic funds transfer shall remit such payments to 75188  
the treasurer of state in the manner prescribed by this section 75189  
and rules adopted by the treasurer of state under section 113.061 75190  
of the Revised Code, and on or before the following dates: 75191

(1) On or before the ~~eleventh~~ fifteenth day of each month, a 75192  
vendor shall remit an amount equal to the taxes collected during 75193  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 75194  
~~eighteenth day of each month, a vendor shall remit an amount equal~~ 75195  
~~to the taxes collected on the eighth through the fourteenth day of~~ 75196  
~~the month.~~ On or before the twenty-fifth day of each month, a 75197  
vendor shall remit an amount equal to the taxes collected on the 75198  
~~fifteenth~~ twelfth through the twenty-first day of the month. 75199

(2) In lieu of remitting the actual amounts collected for the 75200  
periods specified in division (B)(1) of this section, a vendor 75201  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 75202  
twenty-fifth days of each month, remit an amount equal to 75203  
~~one-fourth~~ thirty-seven and one-half per cent of the vendor's 75204  
total tax liability for the same month in the preceding calendar 75205  
year. 75206

(3) On or before the twenty-third day of each month, a vendor 75207  
shall report the taxes collected for the previous month and shall 75208  
remit that amount, less any amounts paid for that month as 75209  
required by division (B)(1) or (2) of this section. 75210

The payment of taxes by electronic funds transfer does not 75211

affect a vendor's obligation to file the monthly return as 75212  
required under section 5739.12 of the Revised Code. 75213

(C) A vendor required by this section to remit taxes by 75214  
electronic funds transfer may apply to the treasurer of state in 75215  
the manner prescribed by the treasurer of state to be excused from 75216  
that requirement. The treasurer of state may excuse the vendor 75217  
from remittance by electronic funds transfer for good cause shown 75218  
for the period of time requested by the vendor or for a portion of 75219  
that period. The treasurer of state shall notify the tax 75220  
commissioner and the vendor of the treasurer of state's decision 75221  
as soon as is practicable. 75222

(D)(1) If a vendor that is required to remit payments under 75223  
division (B) of this section fails to make a payment, the 75224  
commissioner may impose an additional charge not to exceed five 75225  
per cent of that unpaid amount. 75226

(2) If a vendor required by this section to remit taxes by 75227  
electronic funds transfer remits those taxes by some means other 75228  
than by electronic funds transfer as prescribed by this section 75229  
and the rules adopted by the treasurer of state, and the treasurer 75230  
of state determines that such failure was not due to reasonable 75231  
cause or was due to willful neglect, the treasurer of state shall 75232  
notify the tax commissioner of the failure to remit by electronic 75233  
funds transfer and shall provide the commissioner with any 75234  
information used in making that determination. The tax 75235  
commissioner may impose an additional charge not to exceed the 75236  
lesser of five per cent of the amount of the taxes required to be 75237  
paid by electronic funds transfer or five thousand dollars. 75238

(3) Any additional charge imposed under division (D)(1) or 75239  
(2) of this section is in addition to any other penalty or charge 75240  
imposed under this chapter, and shall be considered as revenue 75241  
arising from taxes imposed under this chapter. An additional 75242  
charge may be collected by assessment in the manner prescribed by 75243

section 5739.13 of the Revised Code. The tax commissioner may 75244  
waive all or a portion of such a charge and may adopt rules 75245  
governing such waiver. 75246

No additional charge shall be imposed under division (D)(2) 75247  
of this section against a vendor that has been notified of its 75248  
obligation to remit taxes under this section and that remits its 75249  
first two tax payments after such notification by some means other 75250  
than electronic funds transfer. The additional charge may be 75251  
imposed upon the remittance of any subsequent tax payment that the 75252  
vendor remits by some means other than electronic funds transfer. 75253

**Sec. 5739.17.** (A) No person shall engage in making retail 75254  
sales subject to a tax imposed by or pursuant to section 5739.02, 75255  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75256  
without having a license therefor, except as otherwise provided in 75257  
divisions (A)(1), (2), and (3) of this section. 75258

(1) In the dissolution of a partnership by death, the 75259  
surviving partner may operate under the license of the partnership 75260  
for a period of sixty days. 75261

(2) The heirs or legal representatives of deceased persons, 75262  
and receivers and trustees in bankruptcy, appointed by any 75263  
competent authority, may operate under the license of the person 75264  
so succeeded in possession. 75265

(3) Two or more persons who are not partners may operate a 75266  
single place of business under one license. In such case neither 75267  
the retirement of any such person from business at that place of 75268  
business, nor the entrance of any person, under an existing 75269  
arrangement, shall affect the license or require the issuance of a 75270  
new license, unless the person retiring from the business is the 75271  
individual named on the vendor's license. 75272

Except as otherwise provided in this section, each applicant 75273

for a license shall make out and deliver to the county auditor of 75274  
each county in which the applicant desires to engage in business, 75275  
upon a blank to be furnished by such auditor for that purpose, a 75276  
statement showing the name of the applicant, each place of 75277  
business in the county where the applicant will make retail sales, 75278  
the nature of the business, and any other information the tax 75279  
commissioner reasonably prescribes in the form of a statement 75280  
prescribed by the commissioner. 75281

At the time of making the application, the applicant shall 75282  
pay into the county treasury a license fee in the sum of 75283  
twenty-five dollars for each fixed place of business in the county 75284  
that will be the situs of retail sales. Upon receipt of the 75285  
application and exhibition of the county treasurer's receipt, 75286  
showing the payment of the license fee, the county auditor shall 75287  
issue to the applicant a license for each fixed place of business 75288  
designated in the application, authorizing the applicant to engage 75289  
in business at that location. If a vendor's identity changes, the 75290  
vendor shall apply for a new license. If a vendor wishes to move 75291  
an existing fixed place of business to a new location within the 75292  
same county, the vendor shall obtain a new vendor's license or 75293  
submit a request to the tax commissioner to transfer the existing 75294  
vendor's license to the new location. When the new location has 75295  
been verified as being within the same county, the commissioner 75296  
shall authorize the transfer and notify the county auditor of the 75297  
change of location. If a vendor wishes to move an existing fixed 75298  
place of business to another county, the vendor's license shall 75299  
not transfer and the vendor shall obtain a new vendor's license 75300  
from the county in which the business is to be located. The form 75301  
of the license shall be prescribed by the commissioner. The fees 75302  
collected shall be credited to the general fund of the county. 75303

A vendor that makes retail sales subject to tax under Chapter 75304  
5739. of the Revised Code pursuant to a permit issued by the 75305

division of liquor control shall obtain a vendor's license in the 75306  
identical name and for the identical address as shown on the 75307  
permit. 75308

Except as otherwise provided in this section, if a vendor has 75309  
no fixed place of business and sells from a vehicle, each vehicle 75310  
intended to be used within a county constitutes a place of 75311  
business for the purpose of this section. 75312

(B) As used in this division, "transient vendor" means any 75313  
person who makes sales of tangible personal property from vending 75314  
machines located on land owned by others, who leases titled motor 75315  
vehicles, titled watercraft, or titled outboard motors, who 75316  
effectuates leases that are taxed according to division 75317  
~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or 75318  
who, in the usual course of the person's business, transports 75319  
inventory, stock of goods, or similar tangible personal property 75320  
to a temporary place of business or temporary exhibition, show, 75321  
fair, flea market, or similar event in a county in which the 75322  
person has no fixed place of business, for the purpose of making 75323  
retail sales of such property. A "temporary place of business" 75324  
means any public or quasi-public place including, but not limited 75325  
to, a hotel, rooming house, storeroom, building, part of a 75326  
building, tent, vacant lot, railroad car, or motor vehicle that is 75327  
temporarily occupied for the purpose of making retail sales of 75328  
goods to the public. A place of business is not temporary if the 75329  
same person conducted business at the place continuously for more 75330  
than six months or occupied the premises as the person's permanent 75331  
residence for more than six months, or if the person intends it to 75332  
be a fixed place of business. 75333

Any transient vendor, in lieu of obtaining a vendor's license 75334  
under division (A) of this section for counties in which the 75335  
transient vendor has no fixed place of business, may apply to the 75336  
tax commissioner, on a form prescribed by the commissioner, for a 75337

transient vendor's license. The transient vendor's license 75338  
authorizes the transient vendor to make retail sales in any county 75339  
in which the transient vendor does not maintain a fixed place of 75340  
business. Any holder of a transient vendor's license shall not be 75341  
required to obtain a separate vendor's license from the county 75342  
auditor in that county. Upon the commissioner's determination that 75343  
an applicant is a transient vendor, the applicant shall pay a 75344  
license fee in the amount of twenty-five dollars, at which time 75345  
the tax commissioner shall issue the license. The tax commissioner 75346  
may require a vendor to be licensed as a transient vendor if, in 75347  
the opinion of the commissioner, such licensing is necessary for 75348  
the efficient administration of the tax. 75349

Any holder of a valid transient vendor's license may make 75350  
retail sales at a temporary place of business or temporary 75351  
exhibition, show, fair, flea market, or similar event, held 75352  
anywhere in the state without complying with any provision of 75353  
section 311.37 of the Revised Code. Any holder of a valid vendor's 75354  
license may make retail sales as a transient vendor at a temporary 75355  
place of business or temporary exhibition, show, fair, flea 75356  
market, or similar event held in any county in which the vendor 75357  
maintains a fixed place of business for which the vendor holds a 75358  
vendor's license without obtaining a transient vendor's license. 75359

(C) As used in this division, "service vendor" means any 75360  
person who, in the usual course of the person's business, sells 75361  
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75362  
(k), (l), ~~or~~ (m), (q), or (u) of section 5739.01 of the Revised 75363  
Code. 75364

Every service vendor shall make application to the tax 75365  
commissioner for a service vendor's license. Each applicant shall 75366  
pay a license fee in the amount of twenty-five dollars. Upon the 75367  
commissioner's determination that an applicant is a service vendor 75368  
and payment of the fee, the commissioner shall issue the applicant 75369

a service vendor's license. 75370

Only sales described in division (B)(3)(e), (f), (g), (h), 75371  
(i), (j), (k), (l), ~~or (m)~~, (g), or (u) of section 5739.01 of the 75372  
Revised Code may be made under authority of a service vendor's 75373  
license, and that license authorizes sales to be made at any place 75374  
in this state. Any service vendor who makes sales of other 75375  
services or tangible personal property subject to the sales tax 75376  
also shall be licensed under division (A), (B), or (D) of this 75377  
section. 75378

(D) As used in this division, "delivery vendor" means any 75379  
vendor who engages in one or more of the activities described in 75380  
divisions (D)(1) to (4) of this section, and who maintains no 75381  
store, showroom, or similar fixed place of business or other 75382  
location where merchandise regularly is offered for sale or 75383  
displayed or shown in catalogs for selection or pick-up by 75384  
consumers, or where consumers bring goods for repair or other 75385  
service. 75386

(1) The vendor makes retail sales of tangible personal 75387  
property; 75388

(2) The vendor rents or leases, at retail, tangible personal 75389  
property, except titled motor vehicles, titled watercraft, or 75390  
titled outboard motors; 75391

(3) The vendor provides a service, at retail, described in 75392  
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 75393  
Revised Code; or 75394

(4) The vendor makes retail sales of warranty, maintenance or 75395  
service contracts, or similar agreements as described in division 75396  
(B)(7) of section 5739.01 of the Revised Code. 75397

A transient vendor or a seller registered pursuant to section 75398  
5741.17 of the Revised Code is not a delivery vendor. 75399

Delivery vendors shall apply to the tax commissioner, on a 75400  
form prescribed by the commissioner, for a delivery vendor's 75401  
license. Each applicant shall pay a license fee of twenty-five 75402  
dollars for each delivery vendor's license, to be credited to the 75403  
general revenue fund. Upon the commissioner's determination that 75404  
the applicant is a delivery vendor, the commissioner shall issue 75405  
the license. A delivery vendor's license authorizes retail sales 75406  
to be made throughout the state. All sales of the vendor must be 75407  
reported under the delivery license. The commissioner may require 75408  
a vendor to be licensed as a delivery vendor if, in the opinion of 75409  
the commissioner, such licensing is necessary for the efficient 75410  
administration of the tax. The commissioner shall not issue a 75411  
delivery vendor license to a vendor who holds a license issued 75412  
under division (A) of this section. 75413

(E) Any transient vendor who is issued a license pursuant to 75414  
this section shall display the license or a copy of it 75415  
prominently, in plain view, at every place of business of the 75416  
transient vendor. Every owner, organizer, or promoter who operates 75417  
a fair, flea market, show, exhibition, convention, or similar 75418  
event at which transient vendors are present shall keep a 75419  
comprehensive record of all such vendors, listing the vendor's 75420  
name, permanent address, vendor's license number, and the type of 75421  
goods sold. Such records shall be kept for four years and shall be 75422  
open to inspection by the tax commissioner. 75423

**Sec. 5739.21.** (A) Four and two-tenths per cent of all money 75424  
deposited into the state treasury under sections 5739.01 to 75425  
5739.31 of the Revised Code and not required to be distributed as 75426  
provided in section 5739.102 of the Revised Code or division (B) 75427  
of this section shall be credited to the local government fund for 75428  
distribution in accordance with section 5747.50 of the Revised 75429  
Code, six-tenths of one per cent shall be credited to the local 75430

government revenue assistance fund for distribution in accordance 75431  
with section 5747.61 of the Revised Code, and ninety-five and 75432  
two-tenths per cent shall be credited to the general revenue fund. 75433

(B)(1) In any case where any county or transit authority has 75434  
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 75435  
5739.026 of the Revised Code, the tax commissioner shall, within 75436  
forty-five days after the end of each month, determine and certify 75437  
to the director of budget and management the amount of the 75438  
proceeds of such tax or taxes received during that month from 75439  
billings and assessments ~~received during that month~~, or ~~shown on~~ 75440  
associated with tax returns or reports filed during that month, to 75441  
be returned to the county or transit authority levying the tax or 75442  
taxes. The amount to be returned to each county and transit 75443  
authority shall be a fraction of the aggregate amount of money 75444  
collected with respect to each area in which one or more of such 75445  
taxes are concurrently in effect with the tax levied by section 75446  
5739.02 of the Revised Code, ~~the~~. The numerator of which the 75447  
fraction is the rate of the tax levied by the county or transit 75448  
authority and the denominator of ~~which the fraction~~ is the 75449  
aggregate rate of such taxes applicable to such area; ~~provided,~~ 75450  
~~that the~~. The amount to be returned to each county or transit 75451  
authority shall be reduced by the amount of any refunds of county 75452  
or transit authority tax paid pursuant to section 5739.07 of the 75453  
Revised Code during the same month, or transfers made pursuant to 75454  
division (B)(2) of section 5703.052 of the Revised Code. 75455

(2) On a periodic basis, using the best information 75456  
available, the tax commissioner shall distribute any amount of a 75457  
county or transit authority tax that cannot be distributed under 75458  
division (B)(1) of this section. Through audit or other means, the 75459  
commissioner shall attempt to obtain the information necessary to 75460  
make the distribution as provided under that division and, on 75461  
receipt of that information, shall make adjustments to 75462

distributions previously made under this division. 75463

(C) The aggregate amount to be returned to any county or 75464  
transit authority shall be reduced by one per cent, which shall be 75465  
certified directly to the credit of the local sales tax 75466  
administrative fund, which is hereby created in the state 75467  
treasury. For the purpose of determining the amount to be returned 75468  
to a county and transit authority in which the rate of tax imposed 75469  
by the transit authority has been reduced under section 5739.028 75470  
of the Revised Code, the tax commissioner shall use the respective 75471  
rates of tax imposed by the county or transit authority that 75472  
results from the change in the rates authorized under that 75473  
section. ~~The~~ 75474

(D) The director of budget and management shall transfer, 75475  
from the same funds and in the same proportions specified in 75476  
division (A) of this section, to the permissive tax distribution 75477  
fund created by division (B)(1) of section 4301.423 of the Revised 75478  
Code and to the local sales tax administrative fund, the amounts 75479  
certified by the tax commissioner. The tax commissioner shall 75480  
then, on or before the twentieth day of the month in which such 75481  
certification is made, provide for payment of such respective 75482  
amounts to the county treasurer and to the fiscal officer of the 75483  
transit authority levying the tax or taxes. The amount transferred 75484  
to the local sales tax administrative fund is for use by the tax 75485  
commissioner in defraying costs incurred in administering such 75486  
taxes levied by a county or transit authority. 75487

**Sec. 5739.33.** If any corporation, limited liability company, 75488  
or business trust required to file returns and to remit tax due to 75489  
the state under this chapter, including a holder of a direct 75490  
payment permit under section 5739.031 of the Revised Code, fails 75491  
for any reason to make the filing or payment, any of its employees 75492  
having control or supervision of or charged with the 75493

responsibility of filing returns and making payments, or any of 75494  
its officers, members, managers, or trustees who are responsible 75495  
for the execution of the corporation's, limited liability 75496  
company's, or business trust's fiscal responsibilities, shall be 75497  
personally liable for the failure. The dissolution, termination, 75498  
or bankruptcy of a corporation, limited liability company, or 75499  
business trust shall not discharge a responsible officer's, 75500  
member's, manager's, employee's, or trustee's liability for a 75501  
failure of the corporation, limited liability company, or business 75502  
trust to file returns or remit tax due. The sum due for the 75503  
liability may be collected by assessment in the manner provided in 75504  
section 5739.13 of the Revised Code. 75505

**Sec. 5741.01.** As used in this chapter: 75506

(A) "Person" includes individuals, receivers, assignees, 75507  
trustees in bankruptcy, estates, firms, partnerships, 75508  
associations, joint-stock companies, joint ventures, clubs, 75509  
societies, corporations, business trusts, governments, and 75510  
combinations of individuals of any form. 75511

(B) "Storage" means and includes any keeping or retention in 75512  
this state for use or other consumption in this state. 75513

(C) "Use" means and includes the exercise of any right or 75514  
power incidental to the ownership of the thing used. A thing is 75515  
also "used" in this state if its consumer gives or otherwise 75516  
distributes it, without charge, to recipients in this state. 75517

(D) "Purchase" means acquired or received for a 75518  
consideration, whether such acquisition or receipt was effected by 75519  
a transfer of title, or of possession, or of both, or a license to 75520  
use or consume; whether such transfer was absolute or conditional, 75521  
and by whatever means the transfer was effected; and whether the 75522  
consideration was money, credit, barter, or exchange. Purchase 75523  
includes production, even though the article produced was used, 75524

stored, or consumed by the producer. The transfer of copyrighted 75525  
motion picture films for exhibition purposes is not a purchase, 75526  
except such films as are used solely for advertising purposes. 75527

(E) "Seller" means the person from whom a purchase is made, 75528  
and includes every person engaged in this state or elsewhere in 75529  
the business of selling tangible personal property or providing a 75530  
service for storage, use, or other consumption or benefit in this 75531  
state; and when, in the opinion of the tax commissioner, it is 75532  
necessary for the efficient administration of this chapter, to 75533  
regard any salesman, representative, peddler, or canvasser as the 75534  
agent of a dealer, distributor, supervisor, or employer under whom 75535  
the person operates, or from whom the person obtains tangible 75536  
personal property, sold by the person for storage, use, or other 75537  
consumption in this state, irrespective of whether or not the 75538  
person is making such sales on the person's own behalf, or on 75539  
behalf of such dealer, distributor, supervisor, or employer, the 75540  
commissioner may regard the person as such agent, and may regard 75541  
such dealer, distributor, supervisor, or employer as the seller. 75542  
"Seller" does not include any person to the extent the person 75543  
provides a communications medium, such as, but not limited to, 75544  
newspapers, magazines, radio, television, or cable television, by 75545  
means of which sellers solicit purchases of their goods or 75546  
services. 75547

(F) "Consumer" means any person who has purchased tangible 75548  
personal property or has been provided a service for storage, use, 75549  
or other consumption or benefit in this state. "Consumer" does not 75550  
include a person who receives, without charge, tangible personal 75551  
property or a service. 75552

A person who performs a facility management or similar 75553  
service contract for a contractee is a consumer of all tangible 75554  
personal property and services purchased for use in connection 75555  
with the performance of such contract, regardless of whether title 75556

to any such property vests in the contractee. The purchase of such 75557  
property and services is not subject to the exception for resale 75558  
under division (E)~~(1)~~ of section 5739.01 of the Revised Code. 75559

(G)~~(1)~~ "Price," except as provided in the case of watercraft, 75560  
~~outboard motors, or new motor vehicles, means the aggregate value~~ 75561  
~~in money of anything paid or delivered, or promised to be paid or~~ 75562  
~~delivered, by a consumer to a seller in the complete performance~~ 75563  
~~of the transaction by which tangible personal property has been~~ 75564  
~~purchased or a service has been provided for storage, use, or~~ 75565  
~~other consumption or benefit in this state, without any deduction~~ 75566  
~~or exclusion on account of the cost of the property sold, cost of~~ 75567  
~~materials used, labor or service cost, interest, discount paid or~~ 75568  
~~allowed after the sale is consummated, or any other expense. If~~ 75569  
~~the transaction consists of the rental or lease of tangible~~ 75570  
~~personal property, "price" means the aggregate value in money of~~ 75571  
~~anything paid or delivered, or promised to be paid or delivered by~~ 75572  
~~the lessee to the lessor, in the complete performance of the~~ 75573  
~~rental or lease, without any deduction or exclusion of tax,~~ 75574  
~~interest, labor or service charge, damage liability waiver,~~ 75575  
~~termination or damage charge, discount paid or allowed after the~~ 75576  
~~lease is consummated, or any other expense. Except as provided in~~ 75577  
~~division (G)~~(6)~~ of this section, the tax shall be calculated and~~ 75578  
~~collected by the lessor on each payment made by the lessee. If a~~ 75579  
~~consumer produces the tangible personal property used by the~~ 75580  
~~consumer, the price is the produced cost of such tangible personal~~ 75581  
~~property. "Price" does not include delivery charges that are~~ 75582  
~~separately stated on the initial invoice or initial billing~~ 75583  
~~rendered by the seller.~~ 75584

~~The tax collected by the seller from the consumer under this~~ 75585  
~~chapter is not a part of the price, but is a tax collection for~~ 75586  
~~the benefit of the state, and of counties levying an additional~~ 75587  
~~use tax pursuant to section 5741.021 or 5741.023 of the Revised~~ 75588

~~Code and of transit authorities levying an additional use tax 75589  
pursuant to section 5741.022 of the Revised Code and, except for 75590  
the discount authorized under section 5741.12 of the Revised Code 75591  
and the effects of any rounding pursuant to section 5703.055 of 75592  
the Revised Code, no person other than the state or such a county 75593  
or transit authority shall derive any benefit from the collection 75594  
or payment of such tax. 75595~~

~~As used in division divisions (G)(1)(2) to (6) of this 75596  
section, "delivery charges" means charges by the seller for 75597  
preparation and delivery to a location designated by the consumer 75598  
of tangible personal property or a service, including 75599  
transportation, shipping, postage, handling, crating, and packing 75600  
has the same meaning as in division (H)(1) of section 5739.01 of 75601  
the Revised Code. 75602~~

~~(2) In the case of watercraft, outboard motors, or new motor 75603  
vehicles, "price" has the same meaning as in division divisions 75604  
(H)(2) and (3) of section 5739.01 of the Revised Code. 75605~~

~~(3) In the case of a nonresident business consumer that 75606  
purchases and uses tangible personal property outside this state 75607  
and subsequently temporarily stores, uses, or otherwise consumes 75608  
such tangible personal property in the conduct of business in this 75609  
state, the consumer or the tax commissioner may determine the 75610  
price based on the value of the temporary storage, use, or other 75611  
consumption, in lieu of determining the price pursuant to division 75612  
(G)(1) of this section. A price determination made by the consumer 75613  
is subject to review and redetermination by the commissioner. 75614~~

~~(4) In the case of tangible personal property held in this 75615  
state as inventory for sale or lease, and that is temporarily 75616  
stored, used, or otherwise consumed in a taxable manner, the price 75617  
is the value of the temporary use. A price determination made by 75618  
the consumer is subject to review and redetermination by the 75619  
commissioner. 75620~~

(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 75653  
activities at residents of this state. 75654

(I) "Substantial nexus with this state" means that the seller 75655  
has sufficient contact with this state, in accordance with Section 75656  
8 of Article I of the Constitution of the United States, to allow 75657  
the state to require the seller to collect and remit use tax on 75658  
sales of tangible personal property or services made to consumers 75659  
in this state. "Substantial nexus with this state" exists when the 75660  
seller does any of the following: 75661

(1) Maintains a place of business within this state, whether 75662  
operated by employees or agents of the seller, by a member of an 75663  
affiliated group, as ~~described~~ defined in division (B)(3)(e) of 75664  
section 5739.01 of the Revised Code, of which the seller is a 75665  
member, or by a franchisee using a trade name of the seller; 75666

(2) Regularly has employees, agents, representatives, 75667  
solicitors, installers, repairmen, salesmen, or other individuals 75668  
in this state for the purpose of conducting the business of the 75669  
seller; 75670

(3) Uses a person in this state for the purpose of receiving 75671  
or processing orders of the seller's goods or services; 75672

(4) Makes regular deliveries of tangible personal property 75673  
into this state by means other than common carrier; 75674

(5) Has membership in an affiliated group, as described in 75675  
division (B)(3)(e) of section 5739.01 of the Revised Code, at 75676  
least one other member of which has substantial nexus with this 75677  
state; 75678

(6) Owns tangible personal property that is rented or leased 75679  
to a consumer in this state, or offers tangible personal property, 75680  
on approval, to consumers in this state; 75681

(7) Except as provided in section 5703.65 of the Revised 75682

Code, is registered with the secretary of state to do business in 75683  
this state or is registered or licensed by any state agency, 75684  
board, or commission to transact business in this state or to make 75685  
sales to persons in this state; 75686

(8) Has any other contact with this state that would allow 75687  
this state to require the seller to collect and remit use tax 75688  
under Section 8 of Article I of the Constitution of the United 75689  
States. 75690

(J) "Fiscal officer" means, with respect to a regional 75691  
transit authority, the secretary-treasurer thereof, and with 75692  
respect to a county which is a transit authority, the fiscal 75693  
officer of the county transit board appointed pursuant to section 75694  
306.03 of the Revised Code or, if the board of county 75695  
commissioners operates the county transit system, the county 75696  
auditor. 75697

(K) "Territory of the transit authority" means all of the 75698  
area included within the territorial boundaries of a transit 75699  
authority as they from time to time exist. Such territorial 75700  
boundaries must at all times include all the area of a single 75701  
county or all the area of the most populous county which is a part 75702  
of such transit authority. County population shall be measured by 75703  
the most recent census taken by the United States census bureau. 75704

(L) "Transit authority" means a regional transit authority 75705  
created pursuant to section 306.31 of the Revised Code or a county 75706  
in which a county transit system is created pursuant to section 75707  
306.01 of the Revised Code. For the purposes of this chapter, a 75708  
transit authority must extend to at least the entire area of a 75709  
single county. A transit authority which includes territory in 75710  
more than one county must include all the area of the most 75711  
populous county which is a part of such transit authority. County 75712  
population shall be measured by the most recent census taken by 75713  
the United States census bureau. 75714

(M) "Providing a service" has the same meaning as in division 75715  
(X) of section 5739.01 of the Revised Code. 75716

(N) "Other consumption" includes receiving the benefits of a 75717  
service. 75718

(O) "~~Lease~~" ~~means any transfer for a consideration of the~~ 75719  
~~possession of and right to use, but not title to, tangible~~ 75720  
~~personal property for a fixed period of time greater than thirty~~ 75721  
~~days or for an open ended period of time with a minimum fixed~~ 75722  
~~period of more than thirty days or "rental" has the same meaning~~ 75723  
~~as in division (UU) of section 5739.01 of the Revised Code.~~ 75724

(P) "Certified service provider" has the same meaning as in 75725  
section 5740.01 of the Revised Code. 75726

**Sec. 5741.02.** (A)(1) For the use of the general revenue fund 75727  
of the state, an excise tax is hereby levied on the storage, use, 75728  
or other consumption in this state of tangible personal property 75729  
or the benefit realized in this state of any service provided. The 75730  
tax shall be collected ~~pursuant to the schedules as provided~~ in 75731  
section 5739.025 of the Revised Code, provided that on and after 75732  
July 1, 2003, and on or before June 30, 2005, the rate of the tax 75733  
shall be six per cent. On and after July 1, 2005, the rate of the 75734  
tax shall be five per cent. 75735

(2) In the case of the lease or rental, with a fixed term of 75736  
more than thirty days or an indefinite term with a minimum period 75737  
of more than thirty days, of any motor vehicles designed by the 75738  
manufacturer to carry a load of not more than one ton, watercraft, 75739  
outboard motor, or aircraft, or of any tangible personal property, 75740  
other than motor vehicles designed by the manufacturer to carry a 75741  
load of more than one ton, to be used by the lessee or renter 75742  
primarily for business purposes, the tax shall be collected by the 75743  
seller at the time the lease or rental is consummated and shall be 75744

calculated by the seller on the basis of the total amount to be 75745  
paid by the lessee or renter under the lease or rental agreement. 75746  
If the total amount of the consideration for the lease or rental 75747  
includes amounts that are not calculated at the time the lease or 75748  
rental is executed, the tax shall be calculated and collected by 75749  
the seller at the time such amounts are billed to the lessee or 75750  
renter. In the case of an open-end lease or rental, the tax shall 75751  
be calculated by the seller on the basis of the total amount to be 75752  
paid during the initial fixed term of the lease or rental, and for 75753  
each subsequent renewal period as it comes due. As used in this 75754  
division, "motor vehicle" has the same meaning as in section 75755  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 75756  
unit attached to the watercraft. 75757

(3) Except as provided in division (A)(2) of this section, in 75758  
the case of a transaction, the price of which consists in whole or 75759  
part of the lease or rental of tangible personal property, the tax 75760  
shall be measured by the installments of those leases or rentals. 75761

(B) Each consumer, storing, using, or otherwise consuming in 75762  
this state tangible personal property or realizing in this state 75763  
the benefit of any service provided, shall be liable for the tax, 75764  
and such liability shall not be extinguished until the tax has 75765  
been paid to this state; provided, that the consumer shall be 75766  
relieved from further liability for the tax if the tax has been 75767  
paid to a seller in accordance with section 5741.04 of the Revised 75768  
Code or prepaid by the seller in accordance with section 5741.06 75769  
of the Revised Code. 75770

(C) The tax does not apply to the storage, use, or 75771  
consumption in this state of the following described tangible 75772  
personal property or services, nor to the storage, use, or 75773  
consumption or benefit in this state of tangible personal property 75774  
or services purchased under the following described circumstances: 75775

(1) When the sale of property or service in this state is 75776

subject to the excise tax imposed by sections 5739.01 to 5739.31 75777  
of the Revised Code, provided said tax has been paid; 75778

(2) Except as provided in division (D) of this section, 75779  
tangible personal property or services, the acquisition of which, 75780  
if made in Ohio, would be a sale not subject to the tax imposed by 75781  
sections 5739.01 to 5739.31 of the Revised Code; 75782

(3) Property or services, the storage, use, or other 75783  
consumption of or benefit from which this state is prohibited from 75784  
taxing by the Constitution of the United States, laws of the 75785  
United States, or the Constitution of this state. This exemption 75786  
shall not exempt from the application of the tax imposed by this 75787  
section the storage, use, or consumption of tangible personal 75788  
property that was purchased in interstate commerce, but that has 75789  
come to rest in this state, provided that fuel to be used or 75790  
transported in carrying on interstate commerce that is stopped 75791  
within this state pending transfer from one conveyance to another 75792  
is exempt from the excise tax imposed by this section and section 75793  
5739.02 of the Revised Code; 75794

(4) Transient use of tangible personal property in this state 75795  
by a nonresident tourist or vacationer, or a non-business use 75796  
within this state by a nonresident of this state, if the property 75797  
so used was purchased outside this state for use outside this 75798  
state and is not required to be registered or licensed under the 75799  
laws of this state; 75800

(5) Tangible personal property or services rendered, upon 75801  
which taxes have been paid to another jurisdiction to the extent 75802  
of the amount of the tax paid to such other jurisdiction. Where 75803  
the amount of the tax imposed by this section and imposed pursuant 75804  
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 75805  
exceeds the amount paid to another jurisdiction, the difference 75806  
shall be allocated between the tax imposed by this section and any 75807  
tax imposed by a county or a transit authority pursuant to section 75808

5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 75809  
to the respective rates of such taxes. 75810

As used in this subdivision, "taxes paid to another 75811  
jurisdiction" means the total amount of retail sales or use tax or 75812  
similar tax based upon the sale, purchase, or use of tangible 75813  
personal property or services rendered legally, levied by and paid 75814  
to another state or political subdivision thereof, or to the 75815  
District of Columbia, where the payment of such tax does not 75816  
entitle the taxpayer to any refund or credit for such payment. 75817

(6) The transfer of a used manufactured home or used mobile 75818  
home, as defined by section 5739.0210 of the Revised Code, made on 75819  
or after January 1, 2000; 75820

(7) Drugs that are or are intended to be distributed free of 75821  
charge to a practitioner licensed to prescribe, dispense, and 75822  
administer drugs to a human being in the course of a professional 75823  
practice and that by law may be dispensed only by or upon the 75824  
order of such a practitioner. 75825

(D) The tax applies to the storage, use, or other consumption 75826  
in this state of tangible personal property or services, the 75827  
acquisition of which at the time of sale was excepted under 75828  
division (E)~~(1)~~ of section 5739.01 of the Revised Code from the 75829  
tax imposed by section 5739.02 of the Revised Code, but which has 75830  
subsequently been temporarily or permanently stored, used, or 75831  
otherwise consumed in a taxable manner. 75832

(E)(1) If any transaction is claimed to be exempt under 75833  
division (E) of section 5739.01 of the Revised Code or under 75834  
section 5739.02 of the Revised Code, with the exception of 75835  
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 75836  
Code, the consumer shall provide to the seller, and the seller 75837  
shall obtain from the consumer, a certificate specifying the 75838  
reason that the transaction is not subject to the tax. The 75839

certificate shall be provided either in a hard copy form or 75840  
electronic form, as prescribed by the tax commissioner. If the 75841  
transaction is claimed to be exempt under division (B)(13) of 75842  
section 5739.02 of the Revised Code, the exemption certificate 75843  
shall be provided by both the contractor and contractee. Such 75844  
contractee shall be deemed to be the consumer of all items 75845  
purchased under the claim of exemption if it is subsequently 75846  
determined that the exemption is not properly claimed. The 75847  
certificate shall be in such form as the tax commissioner by rule 75848  
prescribes. The seller shall maintain records, including exemption 75849  
certificates, of all sales on which a consumer has claimed an 75850  
exemption, and provide them to the tax commissioner on request. 75851

(2) If no certificate is provided or obtained within the 75852  
period for filing the return for the period in which the 75853  
transaction is consummated, it shall be presumed that the tax 75854  
applies. The failure to have so provided or obtained a certificate 75855  
shall not preclude a seller or consumer from establishing, within 75856  
one hundred twenty days of the giving of notice by the 75857  
commissioner of intention to levy an assessment, that the 75858  
transaction is not subject to the tax. 75859

(F) A seller who files a petition for reassessment contesting 75860  
the assessment of tax on transactions for which the seller 75861  
obtained no valid exemption certificates, and for which the seller 75862  
failed to establish that the transactions were not subject to the 75863  
tax during the one-hundred-twenty-day period allowed under 75864  
division (E) of this section, may present to the tax commissioner 75865  
additional evidence to prove that the transactions were exempt. 75866  
The seller shall file such evidence within ninety days of the 75867  
receipt by the seller of the notice of assessment, except that, 75868  
upon application and for reasonable cause, the tax commissioner 75869  
may extend the period for submitting such evidence thirty days. 75870

(G) For the purpose of the proper administration of sections 75871

5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 75872  
of the tax hereby levied, it shall be presumed that any use, 75873  
storage, or other consumption of tangible personal property in 75874  
this state is subject to the tax until the contrary is 75875  
established. 75876

(H) The tax collected by the seller from the consumer under 75877  
this chapter is not part of the price, but is a tax collection for 75878  
the benefit of the state, and of counties levying an additional 75879  
use tax pursuant to section 5741.021 or 5741.023 of the Revised 75880  
Code and of transit authorities levying an additional use tax 75881  
pursuant to section 5741.022 of the Revised Code. Except for the 75882  
discount authorized under section 5741.12 of the Revised Code and 75883  
the effects of any rounding pursuant to section 5703.055 of the 75884  
Revised Code, no person other than the state or such a county or 75885  
transit authority shall derive any benefit from the collection of 75886  
such tax. 75887

**Sec. 5741.021.** (A) For the purpose of providing additional 75888  
general revenues for the county or supporting criminal and 75889  
administrative justice services in the county, or both, and to pay 75890  
the expenses of administering such levy, any county which levies a 75891  
tax pursuant to section 5739.021 of the Revised Code shall levy a 75892  
tax at the same rate levied pursuant to section 5739.021 of the 75893  
Revised Code on the storage, use, or other consumption in the 75894  
county of the following: 75895

(1) Motor vehicles ~~acquired on or after May 1, 1970,~~ and 75896  
watercraft and outboard motors required to be titled in the county 75897  
pursuant to Chapter 1548. of the Revised Code and ~~acquired on or~~ 75898  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75899  
by section 5739.02 of the Revised Code; 75900

(2) In addition to the tax imposed by section 5741.02 of the 75901  
Revised Code, tangible personal property and services subject to 75902

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 75935  
taxes paid pursuant to those sections is equal to or greater than 75936  
the sum of the taxes due under this section and sections 5741.022 75937  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75938  
less than the sum of the taxes due under this section and sections 75939  
5741.022 and 5741.023 of the Revised Code, the amount of tax paid 75940  
shall be credited against the amount of tax due. 75941

(E) As used in this section, "criminal and administrative 75942  
justice services" has the same meaning as in section 5739.021 of 75943  
the Revised Code. 75944

**Sec. 5741.022.** (A) For the purpose of providing additional 75945  
general revenues for the transit authority and paying the expenses 75946  
of administering such levy, any transit authority as defined in 75947  
section 5741.01 of the Revised Code that levies a tax pursuant to 75948  
section 5739.023 of the Revised Code shall levy a tax at the same 75949  
rate levied pursuant to such section on the storage, use, or other 75950  
consumption in the territory of the transit authority of the 75951  
following: 75952

(1) Motor vehicles ~~acquired on or after June 29, 1974,~~ and 75953  
watercraft and outboard motors required to be titled in the county 75954  
pursuant to Chapter 1548. of the Revised Code and acquired ~~on or~~ 75955  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75956  
by section 5739.02 of the Revised Code; 75957

(2) In addition to the tax imposed by section 5741.02 of the 75958  
Revised Code, tangible personal property and services subject to 75959  
the tax levied by this state as provided in section 5741.02 of the 75960  
Revised Code, and tangible personal property and services 75961  
purchased in another county within this state by a transaction 75962  
subject to the tax imposed by section 5739.02 of the Revised Code. 75963

The tax shall be in effect at the same time and at the same 75964  
rate and shall be levied pursuant to the resolution of the 75965

legislative authority of the transit authority levying a sales tax 75966  
pursuant to section 5739.023 of the Revised Code. 75967

(B) The tax levied pursuant to this section on the storage, 75968  
use, or other consumption of tangible personal property and on the 75969  
benefit of a service realized shall be in addition to the tax 75970  
levied by section 5741.02 of the Revised Code and, except as 75971  
provided in division (D) of this section, any tax levied pursuant 75972  
to sections 5741.021 and 5741.023 of the Revised Code. 75973

(C) The additional tax levied by the authority shall be 75974  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 75975  
Revised Code. 75976

(D) The tax levied pursuant to this section shall not be 75977  
applicable to any benefit of a service realized or to any storage, 75978  
use, or consumption of property not within the taxing power of a 75979  
transit authority under the constitution of the United States or 75980  
the constitution of this state, or to property or services on 75981  
which a tax levied by a county or transit authority pursuant to 75982  
this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 75983  
5741.023 of the Revised Code has been paid, if the sum of the 75984  
taxes paid pursuant to those sections is equal to or greater than 75985  
the sum of the taxes due under this section and sections 5741.021 75986  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75987  
less than the sum of the taxes due under this section and sections 75988  
5741.021 and 5741.023 of the Revised Code, the amount of tax paid 75989  
shall be credited against the amount of tax due. 75990

(E) The rate of a tax levied under this section is subject to 75991  
reduction under section 5739.028 of the Revised Code if a ballot 75992  
question is approved by voters pursuant to that section. 75993

**Sec. 5741.023.** (A) For the same purposes for which it has 75994  
imposed a tax under section 5739.026 of the Revised Code, any 75995  
county ~~which~~ that levies a tax pursuant to such section shall levy 75996

a tax at the same rate levied pursuant to such section on the 75997  
storage, use, or other consumption in the county of the following: 75998

(1) Motor vehicles, and watercraft and outboard motors 75999  
required to be titled in the county pursuant to Chapter 1548. of 76000  
the Revised Code, acquired by a transaction subject to the tax 76001  
imposed by section 5739.02 of the Revised Code; 76002

(2) In addition to the tax imposed by section 5741.02 of the 76003  
Revised Code, tangible personal property and services subject to 76004  
the tax levied by this state as provided in section 5741.02 of the 76005  
Revised Code, and tangible personal property and services 76006  
purchased in another county within this state by a transaction 76007  
subject to the tax imposed by section 5739.02 of the Revised Code. 76008

The tax shall be levied pursuant to a resolution of the board 76009  
of county commissioners, which shall be adopted in the same manner 76010  
as provided in section 5739.026 of the Revised Code. Such 76011  
resolution shall be adopted and shall become effective on the same 76012  
day as the resolution adopted by the board of county commissioners 76013  
levying a sales tax pursuant to such section and shall remain in 76014  
effect until such sales tax is repealed or expires. 76015

(B) The tax levied pursuant to this section shall be in 76016  
addition to the tax levied by section 5741.02 of the Revised Code 76017  
and, except as provided in division (D) of this section, any tax 76018  
levied pursuant to sections 5741.021 and 5741.022 of the Revised 76019  
Code. 76020

(C) The additional tax levied by the county shall be 76021  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 76022  
Revised Code. 76023

(D) The tax levied pursuant to this section shall not be 76024  
applicable to any benefit of a service realized or to any storage, 76025  
use, or consumption of property not within the taxing power of a 76026  
county under the constitution of the United States or the 76027

constitution of this state, or to property or services on which 76028  
 tax levied by a county or transit authority pursuant to this 76029  
 section or section 5739.021, 5739.023, 5739.026, 5741.021, or 76030  
 5741.022 of the Revised Code has been paid, if the sum of the 76031  
 taxes paid pursuant to those sections is equal to or greater than 76032  
 the sum of the taxes due under this section and sections 5741.021 76033  
 and 5741.022 of the Revised Code. If the sum of the taxes paid is 76034  
 less than the sum of the taxes due under this section and sections 76035  
 5741.021 and 5741.022 of the Revised Code, the amount of tax paid 76036  
 shall be credited against the amount of tax due. 76037

**Sec. 5741.121.** (A) If the total amount of tax required to be 76038  
 paid by a seller or consumer under section 5741.12 of the Revised 76039  
 Code for any year ~~indicated in the following schedule~~ equals or 76040  
~~exceeds the amount prescribed for that year in the schedule~~ 76041  
seventy-five thousand dollars, the seller or consumer shall remit 76042  
 each monthly tax payment in the second ensuing and each succeeding 76043  
 year by electronic funds transfer as prescribed by division (B) of 76044  
 this section. 76045

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	76046
Tax payment	\$1,200,000	\$600,000	\$60,000	76047

If a seller's or consumer's tax payment for each of two 76048  
 consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ 76049  
seventy-five thousand dollars, the seller or consumer is relieved 76050  
 of the requirement to remit taxes by electronic funds transfer for 76051  
 the year that next follows the second of the consecutive years in 76052  
 which the tax payment is less than ~~sixty thousand dollars~~ that 76053  
amount, and is relieved of that requirement for each succeeding 76054  
 year, unless the tax payment in a subsequent year equals or 76055  
 exceeds ~~sixty~~ seventy-five thousand dollars. 76056

The tax commissioner shall notify each seller or consumer 76057  
 required to remit taxes by electronic funds transfer of the 76058

seller's or consumer's obligation to do so, shall maintain an 76059  
updated list of those sellers and consumers, and shall timely 76060  
certify the list and any additions thereto or deletions therefrom 76061  
to the treasurer of state. Failure by the tax commissioner to 76062  
notify a seller or consumer subject to this section to remit taxes 76063  
by electronic funds transfer does not relieve the seller or 76064  
consumer of the obligation to remit taxes by electronic funds 76065  
transfer. 76066

(B) Sellers and consumers required by division (A) of this 76067  
section to remit payments by electronic funds transfer shall remit 76068  
such payments to the treasurer of state in the manner prescribed 76069  
by this section and rules adopted by the treasurer of state under 76070  
section 113.061 of the Revised Code, and on or before the 76071  
following dates: 76072

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, 76073  
a seller shall remit an amount equal to the taxes collected during 76074  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 76075  
~~eighteenth day of each month, a seller shall remit an amount equal~~ 76076  
~~to the taxes collected on the eighth through the fourteenth day of~~ 76077  
~~the month.~~ On or before the twenty-fifth day of each month, a 76078  
seller shall remit an amount equal to the taxes collected on the 76079  
~~fifteenth~~ twelfth through the twenty-first day of the month. 76080

(b) In lieu of remitting the actual amounts collected for the 76081  
periods specified in division (B)(1)(a) of this section, a seller 76082  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 76083  
twenty-fifth days of each month, remit an amount equal to 76084  
~~one-fourth~~ thirty-seven and one-half per cent of the seller's 76085  
total tax liability for the same month in the preceding calendar 76086  
year. 76087

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 76088  
and twenty-fifth days of each month, a consumer shall remit an 76089  
amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of 76090

the consumer's total tax liability for the same month in the 76091  
preceding calendar year. 76092

(3) On or before the twenty-third day of each month, a seller 76093  
shall report the taxes collected and a consumer shall report the 76094  
taxes due for the previous month and shall remit that amount, less 76095  
any amounts paid for that month as required by division (B)(1)(a) 76096  
or (b) or (B)(2) of this section. 76097

The payment of taxes by electronic funds transfer does not 76098  
affect a seller's or consumer's obligation to file the monthly 76099  
return as required under section 5741.12 of the Revised Code. 76100

(C) A seller or consumer required by this section to remit 76101  
taxes by electronic funds transfer may apply to the treasurer of 76102  
state in the manner prescribed by the treasurer of state to be 76103  
excused from that requirement. The treasurer of state may excuse 76104  
the seller or consumer from remittance by electronic funds 76105  
transfer for good cause shown for the period of time requested by 76106  
the seller or consumer or for a portion of that period. The 76107  
treasurer of state shall notify the tax commissioner and the 76108  
seller or consumer of the treasurer of state's decision as soon as 76109  
is practicable. 76110

(D)(1) If a seller or consumer that is required to remit 76111  
payments under division (B) of this section fails to make a 76112  
payment, the commissioner may impose an additional charge not to 76113  
exceed five per cent of that unpaid amount. 76114

(2) If a seller or consumer required by this section to remit 76115  
taxes by electronic funds transfer remits those taxes by some 76116  
means other than by electronic funds transfer as prescribed by the 76117  
rules adopted by the treasurer of state, and the treasurer of 76118  
state determines that such failure was not due to reasonable cause 76119  
or was due to willful neglect, the treasurer of state shall notify 76120  
the tax commissioner of the failure to remit by electronic funds 76121

transfer and shall provide the commissioner with any information 76122  
used in making that determination. The tax commissioner may impose 76123  
an additional charge not to exceed the lesser of five per cent of 76124  
the amount of the taxes required to be paid by electronic funds 76125  
transfer or five thousand dollars. 76126

(3) Any additional charge imposed under this section is in 76127  
addition to any other penalty or charge imposed under this 76128  
chapter, and shall be considered as revenue arising from taxes 76129  
imposed under this chapter. An additional charge may be collected 76130  
by assessment in the manner prescribed by section 5741.13 of the 76131  
Revised Code. The tax commissioner may waive all or a portion of 76132  
such a charge and may adopt rules governing such waiver. 76133

No additional charge shall be imposed under division (D)(2) 76134  
of this section against a seller or consumer that has been 76135  
notified of the obligation to remit taxes under this section and 76136  
that remits its first two tax payments after such notification by 76137  
some means other than electronic funds transfer. The additional 76138  
charge may be imposed upon the remittance of any subsequent tax 76139  
payment that the seller or consumer remits by some means other 76140  
than electronic funds transfer. 76141

Sec. 5741.25. If any corporation, limited liability company, 76142  
or business trust registered or required to be registered under 76143  
section 5741.17 of the Revised Code and required to file returns 76144  
and remit tax due to the state under this chapter fails for any 76145  
reason to make the filing or payment, any of its employees having 76146  
control or supervision of or charged with the responsibility of 76147  
filing returns and making payments, or any of its officers, 76148  
members, managers, or trustees who are responsible for the 76149  
execution of the corporation's, limited liability company's, or 76150  
business trust's fiscal responsibilities, shall be personally 76151  
liable for the failure. The dissolution, termination, or 76152

bankruptcy of a corporation, limited liability company, or 76153  
business trust shall not discharge a responsible officer's, 76154  
member's, manager's, employee's, or trustee's liability for a 76155  
failure of the corporation, limited liability company, or business 76156  
trust to file returns or remit tax due. The sum due for the 76157  
liability may be collected by assessment in the manner provided in 76158  
section 5741.11 or 5741.13 of the Revised Code. 76159

**Sec. 5743.05.** All stamps provided for by section 5743.03 of 76160  
the Revised Code, when procured by the tax commissioner, shall be 76161  
immediately delivered to the treasurer of state, who shall execute 76162  
a receipt therefor showing the number and aggregate face value of 76163  
each denomination received by the treasurer of state and any other 76164  
information that the commissioner requires to enforce the 76165  
collection and distribution of all taxes imposed under section 76166  
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76167  
to the commissioner. The treasurer of state shall sell the stamps 76168  
and, on the fifth day of each month, make a report showing all 76169  
sales made during the preceding month, with the names of 76170  
purchasers, the number of each denomination, the aggregate face 76171  
value purchased by each, and any other information as the 76172  
commissioner requires to enforce the collection and distribution 76173  
of all taxes imposed under section 5743.024 of the Revised Code, 76174  
and deliver it to the commissioner. The treasurer of state shall 76175  
be accountable for all stamps received and unsold. The stamps 76176  
shall be sold and accounted for at their face value, except the 76177  
commissioner shall, by rule certified to the treasurer of state, 76178  
authorize the sale of stamps and meter impressions to wholesale or 76179  
retail dealers in this state, or to wholesale dealers outside this 76180  
state, at a discount of not less than one and eight-tenths per 76181  
cent or more than ten per cent of their face value, as a 76182  
commission for affixing and canceling the stamps or meter 76183  
impressions. 76184

The commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale and retail dealers in this state and to wholesale dealers outside this state on credit ~~when the purchaser files~~. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, and with surety to the satisfaction of the ~~treasurer of state~~ commissioner, conditioned on payment to the treasurer of state within thirty days for stamps or meter impressions delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall not require that the dealer file such a bond but shall require payment for the stamps and meter impressions within thirty days after purchase of the stamps and meter impressions. Stamps and meter impressions sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the tax commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period of July through April. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the thirty-day period, the treasurer of state shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount

as prescribed in this chapter, and the commissioner thereafter may 76218  
require the dealer to file a bond until the dealer is restored to 76219  
good standing. The commissioner shall limit delivery of stamps and 76220  
meter impressions on credit to the period running from the first 76221  
day of July of the fiscal year until the first day of the 76222  
following May. Any discount allowed as a commission for affixing 76223  
and canceling stamps or meter impressions shall be allowed with 76224  
respect to sales of stamps and meter impressions on credit. 76225

The treasurer of state shall redeem and pay for any 76226  
destroyed, unused, or spoiled tax stamps and any unused meter 76227  
impressions at their net value, and shall refund to wholesale 76228  
dealers the net amount of state and county taxes paid erroneously 76229  
or paid on cigarettes that have been sold in interstate or foreign 76230  
commerce or that have become unsalable, and the net amount of 76231  
county taxes that were paid on cigarettes that have been sold at 76232  
retail or for retail sale outside a taxing county. 76233

An application for a refund of tax shall be filed with the 76234  
tax commissioner, on the form prescribed by the commissioner for 76235  
that purpose, within three years from the date the tax stamps are 76236  
destroyed or spoiled, from the date of the erroneous payment, or 76237  
from the date that cigarettes on which taxes have been paid have 76238  
been sold in interstate or foreign commerce or have become 76239  
unsalable. 76240

On the filing of the application, the commissioner shall 76241  
determine the amount of refund to which the applicant is entitled, 76242  
payable from receipts of the state tax, and, if applicable, 76243  
payable from receipts of a county tax . If the amount is less than 76244  
that claimed, the ~~commission~~ commissioner shall certify the amount 76245  
to the director of budget and management and treasurer of state 76246  
for payment from the tax refund fund created by section 5703.052 76247  
of the Revised Code. If the amount is less than that claimed, the 76248  
commissioner shall proceed in accordance with section 5703.70 of 76249

the Revised Code. 76250

If a refund is granted for payment of an illegal or erroneous 76251  
assessment issued by the department, the refund shall include 76252  
interest on the amount of the refund from the date of the 76253  
overpayment. The interest shall be computed at the rate per annum 76254  
prescribed by section 5703.47 of the Revised Code. 76255

Sec. 5743.051. This section applies to any wholesale or 76256  
retail cigarette dealer required by section 5743.05 of the Revised 76257  
Code to remit payment for tax stamps and meter impressions by 76258  
electronic funds transfer. The tax commissioner shall notify each 76259  
dealer of the dealer's obligation to do so and shall maintain an 76260  
updated list of those dealers. Failure by the tax commissioner to 76261  
notify a dealer subject to this section to remit taxes by 76262  
electronic funds transfer does not relieve the dealer of its 76263  
obligation to remit taxes by electronic funds transfer. 76264

A dealer required to remit payments by electronic funds 76265  
transfer shall remit such payments to the treasurer of state in 76266  
the manner prescribed by rules adopted by the treasurer of state 76267  
under section 113.061 of the Revised Code and within the time 76268  
prescribed for such a dealer by section 5743.05 of the Revised 76269  
Code. 76270

A dealer required to remit taxes by electronic funds transfer 76271  
may apply to the tax commissioner in the manner prescribed by the 76272  
tax commissioner to be excused from that requirement. The tax 76273  
commissioner may excuse the dealer from remittance by electronic 76274  
funds transfer for good cause shown for the period of time 76275  
requested by the dealer or for a portion of that period. 76276

If a dealer required to remit taxes by electronic funds 76277  
transfer remits those taxes by some other means, the treasurer of 76278  
state shall notify the tax commissioner of the failure to remit by 76279  
electronic funds transfer. If the tax commissioner determines that 76280

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 76312  
placement of a sticker to cover information on or add information 76313  
to the package; 76314

(4) Has been imported or brought into the United States after 76315  
January 1, 2000, in violation of section 5754 of the "Internal 76316  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or 76317  
regulations adopted under that section; 76318

(5) Is produced by a tobacco product manufacturer or is part 76319  
of a brand family that is not included in the directory 76320  
established under section 1346.05 of the Revised Code. 76321

(B) No person shall sell or offer to sell any roll-your-own 76322  
tobacco to any person in this state if the roll-your-own tobacco 76323  
is not included in the directory established under section 1346.05 76324  
of the Revised Code. Any roll-your-own tobacco in the possession 76325  
of a retail dealer in this state shall be prima facie evidence of 76326  
offering to sell to a person in this state. 76327

(C) Whenever the tax commissioner discovers any packages to 76328  
which stamps have been affixed in violation of this section, or 76329  
any roll-your-own tobacco sold or offered for sale in violation of 76330  
this section, the tax commissioner may seize the packages or 76331  
roll-your-own tobacco, which shall ~~thereupon~~ be forfeited to the 76332  
state, and shall order ~~their~~ the destruction of the packages or 76333  
roll-your-own tobacco, provided that the seizure and destruction 76334  
shall not exempt any person from prosecution or from the fine or 76335  
imprisonment provided for the violation of this section. 76336

(D) As used in this section, "roll-your-own" has the same 76337  
meaning as in section 1346.01 of the Revised Code, and "tobacco 76338  
product manufacturer" and "brand family" have the same meanings as 76339  
in section 1346.04 of the Revised Code. 76340

**Sec. 5743.45.** (A) As used in this section, "felony" has the 76341

same meaning as in section 109.511 of the Revised Code. 76342

(B) For purposes of enforcing this chapter and Chapters 76343  
5728., 5735., 5739., 5741., and 5747. of the Revised Code and 76344  
subject to division (C) of this section, the tax commissioner, by 76345  
journal entry, may delegate any investigation powers of the 76346  
commissioner to an employee of the department of taxation who has 76347  
been certified by the Ohio peace officer training commission and 76348  
who is engaged in the enforcement of those chapters. A separate 76349  
journal entry shall be entered for each employee to whom that 76350  
power is delegated. Each journal entry shall be a matter of public 76351  
record and shall be maintained in an administrative portion of the 76352  
journal as provided for in division (L) of section 5703.05 of the 76353  
Revised Code. When that journal entry is completed, the employee 76354  
to whom it pertains, while engaged within the scope of the 76355  
employee's duties in enforcing the provisions of this chapter or 76356  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76357  
has the power of a police officer to carry concealed weapons, make 76358  
arrests, and obtain warrants for violations of any provision in 76359  
those chapters. The commissioner, at any time, may suspend or 76360  
revoke ~~that~~ the commissioner's delegation by journal entry. No 76361  
employee of the department shall divulge any information acquired 76362  
as a result of an investigation pursuant to this chapter or 76363  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76364  
except as may be required by the commissioner or a court. 76365

(C)(1) The tax commissioner shall not delegate any 76366  
investigation powers to an employee of the department of taxation 76367  
pursuant to division (B) of this section on a permanent basis, on 76368  
a temporary basis, for a probationary term, or on other than a 76369  
permanent basis if the employee previously has been convicted of 76370  
or has pleaded guilty to a felony. 76371

(2)(a) The tax commissioner shall revoke the delegation of 76372  
investigation powers to an employee to whom the delegation was 76373

made pursuant to division (B) of this section if that employee 76374  
does either of the following: 76375

(i) Pleads guilty to a felony; 76376

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 76377  
plea agreement as provided in division (D) of section 2929.29 of 76378  
the Revised Code in which the employee agrees to surrender the 76379  
certificate awarded to that employee under section 109.77 of the 76380  
Revised Code. 76381

(b) The tax commissioner shall suspend the delegation of 76382  
investigation powers to an employee to whom the delegation was 76383  
made pursuant to division (B) of this section if that employee is 76384  
convicted, after trial, of a felony. If the employee files an 76385  
appeal from that conviction and the conviction is upheld by the 76386  
highest court to which the appeal is taken or if the employee does 76387  
not file a timely appeal, the commissioner shall revoke the 76388  
delegation of investigation powers to that employee. If the 76389  
employee files an appeal that results in that employee's acquittal 76390  
of the felony or conviction of a misdemeanor, or in the dismissal 76391  
of the felony charge against that employee, the commissioner shall 76392  
reinstate the delegation of investigation powers to that employee. 76393  
The suspension, revocation, and reinstatement of the delegation of 76394  
investigation powers to an employee under division (C)(2) of this 76395  
section shall be made by journal entry pursuant to division (B) of 76396  
this section. An employee to whom the delegation of investigation 76397  
powers is reinstated under division (C)(2)(b) of this section 76398  
shall not receive any back pay for the exercise of those 76399  
investigation powers unless that employee's conviction of the 76400  
felony was reversed on appeal, or the felony charge was dismissed, 76401  
because the court found insufficient evidence to convict the 76402  
employee of the felony. 76403

(3) Division (C) of this section does not apply regarding an 76404  
offense that was committed prior to January 1, 1997. 76405

(4) The suspension or revocation of the delegation of 76406  
investigation powers to an employee under division (C)(2) of this 76407  
section shall be in accordance with Chapter 119. of the Revised 76408  
Code. 76409

**Sec. 5745.01.** As used in this chapter: 76410

(A) "Electric company," ~~and~~ "combined company," and 76411  
"telephone company," have the same meanings as in section 5727.01 76412  
of the Revised Code, except "telephone company" does not include a 76413  
non profit corporation. 76414

(B) "Electric light company" has the same meaning as in 76415  
section 4928.01 of the Revised Code, and includes the activities 76416  
of a combined company as an electric company, but excludes 76417  
nonprofit companies and municipal corporations. 76418

(C) "Taxpayer" means ~~an~~ either of the following: 76419

(1) An electric light company subject to taxation by a 76420  
municipal corporation in this state for a taxable year, excluding 76421  
an electric light company that is not an electric company or a 76422  
combined company and for which an election made under section 76423  
5745.031 of the Revised Code is not in effect with respect to the 76424  
taxable year. If such a company is a qualified subchapter S 76425  
subsidiary as defined in section 1361 of the Internal Revenue Code 76426  
or a disregarded entity, the company's parent S corporation or 76427  
owner is the taxpayer for the purposes of this chapter and is 76428  
hereby deemed to have nexus with this state under the Constitution 76429  
of the United States for the purposes of this chapter. 76430

(2) A telephone company subject to taxation by a municipal 76431  
corporation in this state for a taxable year. A telephone company 76432  
is subject to taxation under this chapter for any taxable year 76433  
that begins on or after January 1, 2004. A telephone company with 76434  
a taxable year ending in 2004 shall compute the tax imposed under 76435

this chapter, or shall compute its net operating loss carried 76436  
forward for that taxable year, by multiplying the tax owed, or the 76437  
loss for the taxable year, by fifty per cent. 76438

(D) "Disregarded entity" means an entity that, for its 76439  
taxable year, is by default, or has elected to be, disregarded as 76440  
an entity separate from its owner pursuant to 26 C.F.R. 76441  
301.7701-3. 76442

(E) "Taxable year" of a taxpayer is the taxpayer's taxable 76443  
year for federal income tax purposes. 76444

(F) "Federal taxable income" means taxable income, before 76445  
operating loss deduction and special deductions, as required to be 76446  
reported for the taxpayer's taxable year under the Internal 76447  
Revenue Code. 76448

(G) "Adjusted federal taxable income" means federal taxable 76449  
income adjusted as follows: 76450

(1) Deduct intangible income as defined in section 718.01 of 76451  
the Revised Code to the extent included in federal taxable income; 76452

(2) Add expenses incurred in the production of such 76453  
intangible income; 76454

(3) If, with respect to a qualifying taxpayer and a 76455  
qualifying asset there occurs a qualifying taxable event, the 76456  
qualifying taxpayer shall reduce its federal taxable income, as 76457  
defined in division (F) of this section, by the amount of the 76458  
book-tax ~~differential~~ difference for that qualifying asset if the 76459  
book-tax ~~differential~~ difference is greater than zero, and shall 76460  
increase its federal taxable income by the absolute value of the 76461  
amount of the book-tax ~~differential~~ difference for that qualifying 76462  
asset if the book-tax ~~differential~~ difference is less than zero. 76463  
The adjustments provided in division (G)(3) of this section are 76464  
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 76465  
the Revised Code to the extent those divisions apply to the 76466

adjustments in that section for the taxable year. A taxpayer shall 76467  
not deduct or add any amount under division (G)(3) of this section 76468  
with respect to a qualifying asset the sale, exchange, or other 76469  
disposition of which resulted in the recognition of a gain or loss 76470  
that the taxpayer deducted or added, respectively, under division 76471  
(G)(1) or (2) of this section. 76472

For the purposes of division (G)(3) of this section, ~~"net~~ 76473  
~~income"~~ has the same meaning as in section 5733.04 of the Revised 76474  
Code, and "book-tax differential difference," "qualifying 76475  
taxpayer," "qualifying asset," and "qualifying taxable event" have 76476  
the same meanings as in section 5733.0510 of the Revised Code. 76477

(4) If the taxpayer is not a C corporation and is not an 76478  
individual, the taxpayer shall compute "adjusted federal taxable 76479  
income" as if the taxpayer were a C corporation, except: 76480

(a) Guaranteed payments and other similar amounts paid or 76481  
accrued to a partner, former partner, or member or former member 76482  
shall not be allowed as a deductible expense; and 76483

(b) With respect to each owner or owner-employee of the 76484  
taxpayer, amounts paid or accrued to a qualified self-employed 76485  
retirement plan and amounts paid or accrued to or for health 76486  
insurance or life insurance shall not be allowed as a deduction. 76487

Nothing in this division shall be construed as allowing the 76488  
taxpayer to deduct any amount more than once. 76489

(5) Add or deduct the amounts described in section 5733.0511 76490  
of the Revised Code for qualifying telephone company taxpayers. 76491

(H) "Internal Revenue Code" means the "Internal Revenue Code 76492  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 76493  
December 31, 2001. 76494

(I) "Ohio net income" means the amount determined under 76495  
division (B) of section 5745.02 of the Revised Code. 76496

Sec. 5745.02. (A) The annual report filed under section 76497  
5745.03 of the Revised Code determines a taxpayer's Ohio net 76498  
income and the portion of Ohio net income to be apportioned to a 76499  
municipal corporation. 76500

(B) A taxpayer's Ohio net income is determined by multiplying 76501  
the taxpayer's adjusted federal taxable income by the sum of the 76502  
property factor multiplied by one-third, the payroll factor 76503  
multiplied by one-third, and the sales factor multiplied by 76504  
one-third. If the denominator of one of the factors is zero, the 76505  
remaining two factors each shall be multiplied by one-half instead 76506  
of one-third; if the denominator of two of the factors is zero, 76507  
the remaining factor shall be multiplied by one. The property, 76508  
payroll, and sales factors shall be determined in the manner 76509  
prescribed by divisions (B)(1), (2), and (3) of this section. 76510

(1) The property factor is a fraction, the numerator of which 76511  
is the average value of the taxpayer's real and tangible personal 76512  
property owned or rented, and used in business in this state 76513  
during the taxable year, and the denominator of which is the 76514  
average value of all the taxpayer's real and tangible personal 76515  
property owned or rented, and used in business everywhere during 76516  
such year. Property owned by the taxpayer is valued at its 76517  
original cost. Property rented by the taxpayer is valued at eight 76518  
times the net annual rental rate. "Net annual rental rate" means 76519  
the annual rental rate paid by the taxpayer less any annual rental 76520  
rate received by the taxpayer from subrentals. The average value 76521  
of property shall be determined by averaging the values at the 76522  
beginning and the end of the taxable year, but the tax 76523  
commissioner may require the averaging of monthly values during 76524  
the taxable year, if reasonably required to reflect properly the 76525  
average value of the taxpayer's property. 76526

(2) The payroll factor is a fraction, the numerator of which 76527

is the total amount paid in this state during the taxable year by 76528  
the taxpayer for compensation, and the denominator of which is the 76529  
total compensation paid everywhere by the taxpayer during such 76530  
year. Compensation means any form of remuneration paid to an 76531  
employee for personal services. Compensation is paid in this state 76532  
if: (a) the recipient's service is performed entirely within this 76533  
state, (b) the recipient's service is performed both within and 76534  
without this state, but the service performed without this state 76535  
is incidental to the recipient's service within this state, or (c) 76536  
some of the service is performed within this state and either the 76537  
base of operations, or if there is no base of operations, the 76538  
place from which the service is directed or controlled is within 76539  
this state, or the base of operations or the place from which the 76540  
service is directed or controlled is not in any state in which 76541  
some part of the service is performed, but the recipient's 76542  
residence is in this state. 76543

(3) The sales factor is a fraction, the numerator of which is 76544  
the total sales in this state by the taxpayer during the taxable 76545  
year, and the denominator of which is the total sales by the 76546  
taxpayer everywhere during such year. Sales of electricity shall 76547  
be situated to this state in the manner provided under section 76548  
5733.059 of the Revised Code. In determining the numerator and 76549  
denominator of the sales factor, receipts from the sale or other 76550  
disposal of a capital asset or an asset described in section 1231 76551  
of the Internal Revenue Code shall be eliminated. Also, in 76552  
determining the numerator and denominator of the sales factor, in 76553  
the case of a reporting taxpayer owning at least eighty per cent 76554  
of the issued and outstanding common stock of one or more 76555  
insurance companies or public utilities, except an electric 76556  
company, a combined company, or a telephone company, or owning at 76557  
least twenty-five per cent of the issued and outstanding common 76558  
stock of one or more financial institutions, receipts received by 76559  
the reporting taxpayer from such utilities, insurance companies, 76560

and financial institutions shall be eliminated. 76561

For the purpose of division (B)(3) of this section, sales of 76562  
tangible personal property are in this state where such property 76563  
is received in this state by the purchaser. In the case of 76564  
delivery of tangible personal property by common carrier or by 76565  
other means of transportation, the place at which such property is 76566  
ultimately received after all transportation has been completed 76567  
shall be considered as the place at which such property is 76568  
received by the purchaser. Direct delivery in this state, other 76569  
than for purposes of transportation, to a person or firm 76570  
designated by a purchaser constitutes delivery to the purchaser in 76571  
this state, and direct delivery outside this state to a person or 76572  
firm designated by a purchaser does not constitute delivery to the 76573  
purchaser in this state, regardless of where title passes or other 76574  
conditions of sale. 76575

Sales, other than sales of electricity or tangible personal 76576  
property, are in this state if either the income-producing 76577  
activity is performed solely in this state, or the 76578  
income-producing activity is performed both within and without 76579  
this state and a greater proportion of the income-producing 76580  
activity is performed within this state than in any other state, 76581  
based on costs of performance. 76582

For the purposes of division (B)(3) of this section, the tax 76583  
commissioner may adopt rules to apportion sales within this state. 76584

(C) The portion of a taxpayer's Ohio net income taxable by 76585  
each municipal corporation imposing an income tax shall be 76586  
determined by multiplying the taxpayer's Ohio net income by the 76587  
sum of the municipal property factor multiplied by one-third, the 76588  
municipal payroll factor multiplied by one-third, and the 76589  
municipal sales factor multiplied by one-third, and subtracting 76590  
from the product so obtained any "municipal net operating loss 76591  
carryforward from prior taxable years." If the denominator of one 76592

of the factors is zero, the remaining two factors each shall be 76593  
multiplied by one-half instead of one-third; if the denominator of 76594  
two of the factors is zero, the remaining factor shall be 76595  
multiplied by one. In calculating the "municipal net operating 76596  
loss carryforward from prior taxable years" for each municipal 76597  
corporation, net operating losses are apportioned in and out of a 76598  
municipal corporation for the taxable year in which the net 76599  
operating loss occurs in the same manner that positive net income 76600  
would have been so apportioned. Any net operating loss for a 76601  
municipal corporation may be applied to subsequent net income in 76602  
that municipal corporation to reduce that income to zero or until 76603  
the net operating loss has been fully used as a deduction. The 76604  
unused portion of net operating losses for each taxable year 76605  
apportioned to a municipal corporation may only be applied against 76606  
the income apportioned to that municipal corporation for five 76607  
subsequent taxable years. Net operating losses occurring in 76608  
taxable years ending before 2002 may not be subtracted under this 76609  
section. 76610

A taxpayer's municipal property, municipal payroll, and 76611  
municipal sales factors for a municipal corporation shall be 76612  
determined as provided in divisions (C)(1), (2), and (3) of this 76613  
section. 76614

(1) The municipal property factor is the quotient obtained by 76615  
dividing (a) the average value of real and tangible personal 76616  
property owned or rented by the taxpayer and used in business in 76617  
the municipal corporation during the taxable year by (b) the 76618  
average value of all of the taxpayer's real and tangible personal 76619  
property owned or rented and used in business during that taxable 76620  
year in this state. The value and average value of such property 76621  
shall be determined in the same manner provided in division (B)(1) 76622  
of this section. 76623

(2) The municipal payroll factor is the quotient obtained by 76624

dividing (a) the total amount of compensation earned in the 76625  
municipal corporation by the taxpayer's employees during the 76626  
taxable year for services performed for the taxpayer and that is 76627  
subject to income tax withholding by the municipal corporation by 76628  
(b) the total amount of compensation paid by the taxpayer to its 76629  
employees in this state during the taxable year. Compensation has 76630  
the same meaning as in division (B)(2) of this section. 76631

(3) The municipal sales factor is a fraction, the numerator 76632  
of which is the taxpayer's total sales in a municipal corporation 76633  
during the taxable year, and the denominator of which is the 76634  
taxpayer's total sales in this state during such year. 76635

For the purpose of division (C)(3) of this section, sales of 76636  
tangible personal property are in the municipal corporation where 76637  
such property is received in the municipal corporation by the 76638  
purchaser. Sales of electricity directly to the consumer, as 76639  
defined in section 5733.059 of the Revised Code, shall be 76640  
considered sales of tangible personal property. In the case of the 76641  
delivery of tangible personal property by common carrier or by 76642  
other means of transportation, the place at which such property 76643  
ultimately is received after all transportation has been completed 76644  
shall be considered as the place at which the property is received 76645  
by the purchaser. Direct delivery in the municipal corporation, 76646  
other than for purposes of transportation, to a person or firm 76647  
designated by a purchaser constitutes delivery to the purchaser in 76648  
that municipal corporation, and direct delivery outside the 76649  
municipal corporation to a person or firm designated by a 76650  
purchaser does not constitute delivery to the purchaser in that 76651  
municipal corporation, regardless of where title passes or other 76652  
conditions of sale. Sales, other than sales of tangible personal 76653  
property, are in the municipal corporation if either: 76654

(a) The income-producing activity is performed solely in the 76655  
municipal corporation; 76656

(b) The income-producing activity is performed both within 76657  
and without the municipal corporation and a greater proportion of 76658  
the income-producing activity is performed within that municipal 76659  
corporation than any other location in this state, based on costs 76660  
of performance. 76661

For the purposes of division (C)(3) of this section, the tax 76662  
commissioner may adopt rules to apportion sales within each 76663  
municipal corporation. 76664

(D) If a taxpayer is a combined company as defined in section 76665  
5727.01 of the Revised Code, the municipal property, payroll, and 76666  
sales factors under division (C) of this section shall be adjusted 76667  
as follows: 76668

(1) The numerator of the municipal property factor shall 76669  
include only the value, as determined under division (C)(1) of 76670  
this section, of the company's real and tangible property in the 76671  
municipal corporation attributed to the company's activity as an 76672  
electric company using the same methodology prescribed under 76673  
section 5727.03 of the Revised Code for taxable tangible personal 76674  
property. 76675

(2) The numerator of the municipal payroll factor shall 76676  
include only compensation paid in the municipal corporation by the 76677  
company to its employees for personal services rendered in the 76678  
company's activity as an electric company. 76679

(3) The numerator of the municipal sales factor shall include 76680  
only the sales of tangible personal property and services, as 76681  
determined under division (C)(3) of this section, made in the 76682  
municipal corporation in the course of the company's activity as 76683  
an electric company. 76684

(E)(1) If the provisions for apportioning adjusted federal 76685  
taxable income or Ohio net income under ~~division~~ divisions (B), 76686  
(C), and (D) of this section do not fairly represent business 76687

activity in this state or among municipal corporations, the tax 76688  
commissioner may adopt rules for apportioning such income by an 76689  
alternative method that fairly represents business activity in 76690  
this state or among municipal corporations. 76691

(2) If any of the factors determined under division (B), (C), 76692  
or (D) of this section does not fairly represent the extent of a 76693  
taxpayer's business activity in this state or among municipal 76694  
corporations, the taxpayer may request, or the tax commissioner 76695  
may require, that the taxpayer's adjusted federal taxable income 76696  
or Ohio net income be determined by an alternative method, 76697  
including any of the alternative methods enumerated in division 76698  
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 76699  
requesting an alternative method shall make the request in writing 76700  
to the tax commissioner either with the annual report, a timely 76701  
filed amended report, or a timely filed petition for reassessment. 76702  
When the tax commissioner requires or permits an alternative 76703  
method under division (E)(2) of this section, the tax commissioner 76704  
shall cause a written notice to that effect to be delivered to any 76705  
municipal corporation that would be affected by application of the 76706  
alternative method. Nothing in this division shall be construed to 76707  
extend any statute of limitations under this chapter. 76708

(F)(1) The tax commissioner may adopt rules providing for the 76709  
combination of adjusted federal taxable incomes of taxpayers 76710  
satisfying the ownership or control requirements of section 76711  
5733.052 of the Revised Code if the tax commissioner finds that 76712  
such combinations are necessary to properly reflect adjusted 76713  
federal taxable income, Ohio net income, or the portion of Ohio 76714  
net income to be taxable by municipal corporations. 76715

(2) A taxpayer satisfying the ownership or control 76716  
requirements of section 5733.052 of the Revised Code with respect 76717  
to one or more other taxpayers may not combine their adjusted 76718  
federal taxable incomes for the purposes of this section unless 76719

rules are adopted under division (F)(1) of this section allowing 76720  
such a combination or the tax commissioner finds that such a 76721  
combination is necessary to properly reflect the taxpayers' 76722  
adjusted federal taxable incomes, Ohio net incomes, or the portion 76723  
of Ohio net incomes to be subject to taxation within a municipal 76724  
corporation. 76725

(G) The tax commissioner may adopt rules providing for 76726  
alternative apportionment methods for a telephone company. 76727

**Sec. 5745.04.** (A) As used in this section, "combined tax 76728  
liability" means the total of a taxpayer's income tax liabilities 76729  
to all municipal corporations in this state for a taxable year. 76730

(B) Beginning with its taxable year beginning in 2003, each 76731  
taxpayer shall file a declaration of estimated tax report with, 76732  
and remit estimated taxes to, the tax commissioner, payable to the 76733  
treasurer of state, at the times and in the amounts prescribed in 76734  
divisions (B)(1) to (4) of this section. This division also 76735  
applies to a taxpayer having a taxable year consisting of fewer 76736  
than twelve months, at least one of which is in 2002, that ends 76737  
before January 1, 2003. The first taxable year a taxpayer is 76738  
subject to this chapter, the estimated taxes the taxpayer is 76739  
required to remit under this section shall be based solely on the 76740  
current taxable year and not on the liability for the preceding 76741  
taxable year. 76742

(1) Not less than twenty-five per cent of the combined tax 76743  
liability for the preceding taxable year or twenty per cent of the 76744  
combined tax liability for the current taxable year shall have 76745  
been remitted not later than the fifteenth day of the fourth month 76746  
after the end of the preceding taxable year. 76747

(2) Not less than fifty per cent of the combined tax 76748  
liability for the preceding taxable year or forty per cent of the 76749  
combined tax liability for the current taxable year shall have 76750

been remitted not later than the fifteenth day of the sixth month 76751  
after the end of the preceding taxable year. 76752

(3) Not less than seventy-five per cent of the combined tax 76753  
liability for the preceding taxable year or sixty per cent of the 76754  
combined tax liability for the current taxable year shall have 76755  
been remitted not later than the fifteenth day of the ninth month 76756  
after the end of the preceding taxable year. 76757

(4) Not less than one hundred per cent of the combined tax 76758  
liability for the preceding taxable year or eighty per cent of the 76759  
combined tax liability for the current taxable year shall have 76760  
been remitted not later than the fifteenth day of the twelfth 76761  
month after the end of the preceding taxable year. 76762

(C) Each taxpayer shall report on the declaration of 76763  
estimated tax report the portion of the remittance that the 76764  
taxpayer estimates that it owes to each municipal corporation for 76765  
the taxable year. 76766

(D) Upon receiving a declaration of estimated tax report and 76767  
remittance of estimated taxes under this section, the tax 76768  
commissioner shall immediately forward to the treasurer of state 76769  
such remittance. The treasurer of state shall credit ninety-eight 76770  
and one-half per cent of the remittance to the municipal income 76771  
tax fund and credit the remainder to the municipal income tax 76772  
administrative fund. 76773

(E) If any remittance of estimated taxes is for one thousand 76774  
dollars or more, the taxpayer shall make the remittance by 76775  
electronic funds transfer as prescribed by section 5745.04 of the 76776  
Revised Code. 76777

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 76778  
Code, no penalty or interest shall be imposed on a taxpayer if the 76779  
declaration of estimated tax report is properly filed, and the 76780  
estimated tax is paid, within the time prescribed by division (B) 76781

of this section. 76782

**Sec. 5747.02.** (A) For the purpose of providing revenue for 76783  
the support of schools and local government functions, to provide 76784  
relief to property taxpayers, to provide revenue for the general 76785  
revenue fund, and to meet the expenses of administering the tax 76786  
levied by this chapter, there is hereby levied on every 76787  
individual, trust, and estate residing in or earning or receiving 76788  
income in this state, on every individual, trust, and estate 76789  
earning or receiving lottery winnings, prizes, or awards pursuant 76790  
to Chapter 3770. of the Revised Code, and on every individual, 76791  
trust, and estate otherwise having nexus with or in this state 76792  
under the Constitution of the United States, an annual tax 76793  
measured in the case of individuals by Ohio adjusted gross income 76794  
less an exemption for the taxpayer, the taxpayer's spouse, and 76795  
each dependent as provided in section 5747.025 of the Revised 76796  
Code; measured in the case of trusts by modified Ohio taxable 76797  
income under division (D) of this section; and measured in the 76798  
case of estates by Ohio taxable income. The tax imposed by this 76799  
section on the balance thus obtained is hereby levied as follows: 76800

OHIO ADJUSTED GROSS INCOME LESS		76801
EXEMPTIONS (INDIVIDUALS)		
OR		76802
MODIFIED OHIO		76803
TAXABLE INCOME (TRUSTS)		76804
OR		76805
OHIO TAXABLE INCOME (ESTATES)	TAX	76806
\$5,000 or less	.743%	76807
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	76808
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	76809
More than \$15,000 but not more	\$260.05 plus 3.715% of the	76810

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	76811
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	76812
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	76813
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	76814
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	76815

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 76837  
beginning in the calendar year in which that certification is 76838  
made. 76839

(C) The levy of this tax on income does not prevent a 76840  
municipal corporation, a joint economic development zone created 76841  
under section 715.691, or a joint economic development district 76842  
created under section 715.70 or 715.71 or sections 715.72 to 76843  
715.81 of the Revised Code from levying a tax on income. 76844

(D) This division applies only to taxable years of a trust 76845  
beginning in 2002, 2003, or 2004. 76846

(1) The tax imposed by this section on a trust shall be 76847  
computed by multiplying the Ohio modified taxable income of the 76848  
trust by the rates prescribed by division (A) of this section. 76849

(2) A credit is allowed against the tax computed under 76850  
division (D) of this section equal to the lesser of (1) the tax 76851  
paid to another state or the District of Columbia on the trust's 76852  
modified nonbusiness income, other than the portion of the trust's 76853  
nonbusiness income that is qualifying investment income as defined 76854  
in section 5747.012 of the Revised Code, or (2) the effective tax 76855  
rate, based on modified Ohio taxable income, multiplied by the 76856  
trust's modified nonbusiness income other than the portion of 76857  
trust's nonbusiness income that is qualifying investment income. 76858  
The credit applies before any other applicable credits. 76859

(3) The credits enumerated in divisions (A)(1) to (13) of 76860  
section 5747.98 of the Revised Code do not apply to a trust 76861  
subject to this division. Any credits enumerated in other 76862  
divisions of section 5747.98 of the Revised Code apply to a trust 76863  
subject to this division. To the extent that the trust distributes 76864  
income for the taxable year for which a credit is available to the 76865  
trust, the credit shall be shared by the trust and its 76866  
beneficiaries. The tax commissioner and the trust shall be guided 76867

by applicable regulations of the United States treasury regarding 76868  
the sharing of credits. 76869

(E) For the purposes of this section, "trust" means any trust 76870  
described in Subchapter J of Chapter 1 of the Internal Revenue 76871  
Code, excluding trusts that are not irrevocable as defined in 76872  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 76873  
have no modified Ohio taxable income for the taxable year, 76874  
charitable remainder trusts, qualified funeral trusts and preneed 76875  
funeral contract trusts established pursuant to section 1111.19 of 76876  
the Revised Code that are not qualified funeral trusts, endowment 76877  
and perpetual care trusts, qualified settlement trusts and funds, 76878  
designated settlement trusts and funds, and trusts exempted from 76879  
taxation under section 501(a) of the Internal Revenue Code. 76880

Sec. 5747.026. (A) For taxable years beginning on or after 76881  
January 1, 2002, a member of the national guard or a member of a 76882  
reserve component of the armed forces of the United States called 76883  
to active or other duty under operation Iraqi freedom may apply to 76884  
the tax commissioner for an extension for filing of the return and 76885  
payment of taxes required under Chapter 5747. of the Revised Code 76886  
during the period of the member's duty service and for sixty days 76887  
thereafter. The application shall be filed on or before the 76888  
sixtieth day after the member's duty terminates. An applicant 76889  
shall provide such evidence as the commissioner considers 76890  
necessary to demonstrate eligibility for the extension. 76891

(B)(1) If the commissioner determines that an applicant is 76892  
qualified for an extension under this section, the commissioner 76893  
shall enter into a contract with the applicant for the payment of 76894  
the tax in installments that begin on the sixty-first day after 76895  
the applicant's duty under operation Iraqi freedom terminates. 76896  
Except as provided in division (B)(3) of this section, the 76897  
commissioner may prescribe such contract terms as the commissioner 76898

considers appropriate. 76899

(2) If the commissioner determines that an applicant is 76900  
qualified for an extension under this section, the applicant shall 76901  
not be required to file any return, report, or other tax document 76902  
before the sixty-first day after the applicant's duty under 76903  
operation Iraqi freedom terminates. 76904

(3) Taxes paid pursuant to a contract entered into under 76905  
division (B)(1) of this section are not delinquent. The tax 76906  
commissioner shall not require any payments of penalties or 76907  
interest in connection with such taxes. 76908

(C) The tax commissioner shall adopt rules necessary to 76909  
administer this section, including rules establishing the 76910  
following: 76911

(1) Forms and procedures by which applicants may apply for 76912  
extensions; 76913

(2) Criteria for eligibility; 76914

(3) A schedule for repayment of deferred taxes. 76915

**Sec. 5747.12.** If a person entitled to a refund under section 76916  
5747.11 or 5747.13 of the Revised Code is indebted to this state 76917  
for any tax, workers' compensation premium due under section 76918  
4123.35 of the Revised Code, unemployment compensation 76919  
contribution due under section 4141.25 of the Revised Code, or fee 76920  
administered by the tax commissioner that is paid to the state or 76921  
to the clerk of courts pursuant to section 4505.06 of the Revised 76922  
Code, or any charge, penalty, or interest arising from such a tax, 76923  
workers' compensation premium, unemployment compensation 76924  
contribution, or fee, the amount refundable may be applied in 76925  
satisfaction of the debt. If the amount refundable is less than 76926  
the amount of the debt, it may be applied in partial satisfaction 76927  
of the debt. If the amount refundable is greater than the amount 76928

of the debt, the amount remaining after satisfaction of the debt 76929  
shall be refunded. If the person has more than one such debt, any 76930  
debt subject to section 5739.33 or division (G) of section 5747.07 76931  
of the Revised Code shall be satisfied first. This section applies 76932  
only to debts that have become final. 76933

The tax commissioner may, with the consent of the taxpayer, 76934  
provide for the crediting, against tax imposed under this chapter 76935  
or Chapter 5748. of the Revised Code and due for any taxable year, 76936  
of the amount of any refund due the taxpayer under this chapter or 76937  
Chapter 5748. of the Revised Code, as appropriate, for a preceding 76938  
taxable year. 76939

**Sec. 5747.31.** (A) This section applies to an individual or 76940  
estate that is a proprietor or a pass-through entity investor. 76941

(B) A taxpayer described in division (A) of this section is 76942  
allowed a credit that shall be computed and claimed in the same 76943  
manner as the credit allowed to corporations in section 5733.33 of 76944  
the Revised Code. The taxpayer shall claim one-seventh of the 76945  
credit amount for the calendar year in which the new manufacturing 76946  
machinery and equipment is purchased for use in the county by the 76947  
taxpayer or partnership. One-seventh of the taxpayer credit amount 76948  
is allowed for each of the six ensuing taxable years. The taxpayer 76949  
shall claim the credit in the order required under section 5747.98 76950  
of the Revised Code. 76951

The taxpayer shall file with the department of development a 76952  
notice of intent to claim the credit in accordance with division 76953  
(E) of section 5733.33 of the Revised Code. 76954

(C)(1) A taxpayer described in division (A) of this section 76955  
is allowed a credit that shall be computed in the same manner as 76956  
the credit allowed to a corporation in section 5733.39 of the 76957  
Revised Code, with the following adjustments: 76958

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code; 76959  
76960

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code; 76961  
76962

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code; 76963  
76964

(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. 76965  
76966  
76967  
76968

(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. 76969  
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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. 76975  
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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~~ 76980  
76981  
76982

(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 76983  
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commission from the county general fund in the current fiscal year 76989  
by more than ten per cent of that appropriation, the board of 76990  
county commissioners, by resolution, may create not more than six 76991  
memberships on the veterans service commission in addition to the 76992  
memberships provided for by section 5901.02 of the Revised Code. 76993  
The board shall prescribe the number of years ~~such~~ the additional 76994  
memberships shall exist, which shall not exceed five years. Once a 76995  
board of county commissioners creates ~~such~~ any additional 76996  
memberships, it may not create further additional memberships 76997  
under this section if the total number of such memberships would 76998  
exceed six. The board shall appoint persons who are residents of 76999  
the county and who are honorably discharged or honorably separated 77000  
veterans to each of the additional memberships, for terms 77001  
prescribed by the board and commencing on a date fixed by the 77002  
board. Each person appointed to an additional membership shall 77003  
file, within sixty days after the date of the appointment, the 77004  
person's form DD214 with the governor's office of veterans affairs 77005  
in accordance with guidelines established by the director of that 77006  
office. 77007

(2) If the board of county commissioners appoints ~~such~~ 77008  
additional members as described in division (B)(1) of this 77009  
section, the board may permit the commission to submit an original 77010  
or revised budget request for the ensuing fiscal year later than 77011  
the last Monday in May, as otherwise required under section 77012  
5901.11 of the Revised Code. 77013

(C) The board of county commissioners may remove, for cause, 77014  
any member appointed under this section~~†~~. The board shall provide 77015  
~~for~~ determine whether ~~such~~ the additional members may be 77016  
reappointed upon the expiration of their terms~~†~~, and shall fill 77017  
any vacancy in ~~a~~ an additional membership ~~appointed under this~~ 77018  
~~section~~ for the unexpired term in the manner provided for the 77019  
original appointment. 77020

**Sec. 6101.09.** Within thirty days after the conservancy 77021  
district has been declared a corporation by the court, the clerk 77022  
of such court shall transmit to the secretary of state, to the 77023  
director of the department of natural resources, and to the county 77024  
recorder in each of the counties having lands in the district, 77025  
copies of the findings and the decree of the court incorporating 77026  
the district. The same shall be filed and recorded in the office 77027  
of the secretary of state in the same manner as articles of 77028  
incorporation are required to be filed and recorded under the 77029  
general law concerning corporations. Copies shall also be filed 77030  
and become permanent records in the office of the recorder of each 77031  
county in which a part of the district lies. Each recorder shall 77032  
receive a base fee of one dollar for filing and preserving such 77033  
copies and a housing trust fund fee of one dollar pursuant to 77034  
section 317.36 of the Revised Code, and the secretary of state 77035  
shall receive for filing and for recording the copies a fee of 77036  
twenty-five dollars. 77037

**Sec. 6103.02.** (A) For the purpose of preserving and promoting 77038  
the public health and welfare, a board of county commissioners may 77039  
acquire, construct, maintain, and operate any public water supply 77040  
facilities within its county for one or more sewer districts and 77041  
may provide for their protection and prevent their pollution and 77042  
unnecessary waste. The board may negotiate and enter into a 77043  
contract with any public agency or any person for the management, 77044  
maintenance, operation, and repair of the facilities on behalf of 77045  
the county, upon the terms and conditions as may be agreed upon 77046  
with the agency or person and as may be determined by the board to 77047  
be in the interests of the county. By contract with any public 77048  
agency or any person operating public water supply facilities 77049  
within or without its county, the board also may provide a supply 77050  
of water to a sewer district from the facilities of the public 77051

agency or person. 77052

(B) The county sanitary engineer or sanitary engineering 77053  
department, in addition to other assigned duties, shall assist the 77054  
board in the performance of its duties under this chapter and 77055  
shall be charged with other duties and services in relation to the 77056  
board's duties as the board prescribes. 77057

(C) The board may adopt, publish, administer, and enforce 77058  
rules for the construction, maintenance, protection, and use of 77059  
county-owned or county-operated public water supply facilities 77060  
outside municipal corporations and of public water supply 77061  
facilities within municipal corporations that are owned or 77062  
operated by the county or that are supplied with water from water 77063  
supply facilities owned or operated by the county, including, but 77064  
not limited to, rules for the establishment and use of any 77065  
connections, the termination in accordance with reasonable 77066  
procedures of water service for nonpayment of county water rates 77067  
and charges, and the establishment and use of security deposits to 77068  
the extent considered necessary to ensure the payment of county 77069  
water rates and charges. The rules shall not be inconsistent with 77070  
the laws of the state or any applicable rules of the director of 77071  
environmental protection. 77072

(D) No public water supply facilities shall be constructed in 77073  
any county outside municipal corporations by any person, except 77074  
for the purpose of supplying water to those municipal 77075  
corporations, until the plans and specifications for the 77076  
facilities have been approved by the board. Construction shall be 77077  
done under the supervision of the county sanitary engineer. Any 77078  
person constructing public water supply facilities shall pay to 77079  
the county all expenses incurred by the board in connection with 77080  
the construction. 77081

(E) The county sanitary engineer or the county sanitary 77082  
engineer's authorized assistants or agents, when properly 77083

identified in writing or otherwise and after written notice is 77084  
delivered to the owner at least five days in advance or mailed at 77085  
least five days in advance by first class or certified mail to the 77086  
owner's tax mailing address, may enter upon any public or private 77087  
property for the purpose of making, and may make, surveys or 77088  
inspections necessary for the design or evaluation of county 77089  
public water supply facilities. This entry is not a trespass and 77090  
is not to be considered an entry in connection with any 77091  
appropriation of property proceedings under sections 163.01 to 77092  
163.22 of the Revised Code that may be pending. No person or 77093  
public agency shall forbid the county sanitary engineer or the 77094  
county sanitary engineer's authorized assistants or agents to 77095  
enter, or interfere with their entry, upon the property for the 77096  
purpose of making the surveys or inspections. If actual damage is 77097  
done to property by the making of the surveys or inspections, the 77098  
board shall pay the reasonable value of the damage to the property 77099  
owner, and the cost shall be included in the cost of the 77100  
facilities and may be included in any special assessments levied 77101  
and collected to pay that cost. 77102

(F) The board shall fix reasonable rates, including penalties 77103  
for late payments, for water supplied to public agencies and 77104  
persons when the source of supply or the facilities for its 77105  
distribution are owned or operated by the county and may change 77106  
the rates from time to time as it considers advisable. When the 77107  
source of the water supply to be used by the county is owned by 77108  
another public agency or person, the schedule of rates to be 77109  
charged by the public agency or person shall be approved by the 77110  
board at the time it enters into a contract for the use of water 77111  
from the public agency or person. When the distribution facilities 77112  
are owned by the county, the board also may fix reasonable charges 77113  
to be collected for the privilege of connecting to the 77114  
distribution facilities and may require that, prior to the 77115  
connection, the charges be paid in full or, if determined by the 77116

board to be equitable in a resolution relating to the payment of 77117  
the charges, may require their payment in installments, as 77118  
considered adequate by the board, at the times, in the amounts, 77119  
and with the security, carrying charges, and penalties as may be 77120  
determined by the board in that resolution to be fair and 77121  
appropriate. No public agency or person shall be permitted to 77122  
connect to those facilities until the charges have been paid in 77123  
full or provision for their payment in installments has been made. 77124  
If the connection charges are to be paid in installments, the 77125  
board shall certify, to the county auditor, information sufficient 77126  
to identify each parcel of property served by a connection and, 77127  
with respect to each parcel, the total of the charges to be paid 77128  
in installments, the amount of each installment, and the total 77129  
number of installments to be paid. The county auditor shall record 77130  
and maintain the information so supplied in the waterworks record 77131  
provided for in section 6103.16 of the Revised Code until the 77132  
connection charges are paid in full. The board may include amounts 77133  
attributable to connection charges being paid in installments in 77134  
its billings of rates and other charges for water supplied. In 77135  
addition, the board may consider payments made to a school 77136  
district under section 6103.25 of the Revised Code when the board 77137  
establishes rates and other charges for water supplied. 77138

(G) When any rates or charges are not paid when due, the 77139  
board may do any or all of the following: 77140

(1) Certify the unpaid rates or charges, together with any 77141  
penalties, to the county auditor. The county auditor shall place 77142  
the certified amount upon the real property tax list and duplicate 77143  
against the property served by the connection. The certified 77144  
amount shall be a lien on the property from the date placed on the 77145  
real property tax list and duplicate and shall be collected in the 77146  
same manner as taxes, except that, notwithstanding section 323.15 77147  
of the Revised Code, a county treasurer shall accept a payment in 77148

that amount when separately tendered as payment for the full 77149  
amount of the unpaid rates or charges and associated penalties. 77150  
The lien shall be released immediately upon payment in full of the 77151  
certified amount. 77152

(2) Collect the unpaid rates or charges, together with any 77153  
penalties, by actions at law in the name of the county from an 77154  
owner, tenant, or other person or public agency that is liable for 77155  
the payment of the rates or charges; 77156

(3) Terminate, in accordance with established rules, the 77157  
water service to the particular property unless and until the 77158  
unpaid rates or charges, together with any penalties, are paid in 77159  
full; 77160

(4) Apply, to the extent required, any security deposit made 77161  
in accordance with established rules to the payment of the unpaid 77162  
rates and charges, together with any penalties, for water service 77163  
to the particular property. 77164

All moneys collected as rates, charges, or penalties fixed or 77165  
established in accordance with division (F) of this section for 77166  
water supply purposes in or for any sewer district shall be paid 77167  
to the county treasurer and kept in a separate and distinct water 77168  
fund established by the board to the credit of the district. 77169

Each board that fixes water rates or charges may render 77170  
estimated bills periodically, provided that at least quarterly it 77171  
shall schedule an actual reading of each customer's meter so as to 77172  
render a bill for the actual amount shown by the meter reading to 77173  
be due, with credit for prior payments of any estimated bills 77174  
submitted for any part of the billing period, except that 77175  
estimated bills may be rendered if a customer's meter is not 77176  
accessible for a timely reading or if the circumstances preclude a 77177  
scheduled reading. Each board also shall establish procedures 77178  
providing a fair and reasonable opportunity for the resolution of 77179

billing disputes. 77180

When property to which water service is provided is about to 77181  
be sold, any party to the sale or an agent of a party may request 77182  
the board to have the meter at that property read and to render, 77183  
within ten days following the date on which the request is made, a 77184  
final bill for all outstanding rates and charges for water 77185  
service. The request shall be made at least fourteen days prior to 77186  
the transfer of the title of the property. 77187

At any time prior to a certification under division (G)(1) of 77188  
this section, the board shall accept any partial payment of unpaid 77189  
water rates or charges in the amount of ten dollars or more. 77190

Except as otherwise provided in any proceedings authorizing 77191  
or providing for the security for and payment of any public 77192  
obligations, or in any indenture or trust or other agreement 77193  
securing public obligations, moneys in the water fund shall be 77194  
applied first to the payment of the cost of the management, 77195  
maintenance, and operation of the water supply facilities of, or 77196  
used or operated for, the sewer district, which cost may include 77197  
the county's share of management, maintenance, and operation costs 77198  
under cooperative contracts for the acquisition, construction, or 77199  
use of water supply facilities and, in accordance with a cost 77200  
allocation plan adopted under division (H) of this section, 77201  
payment of all allowable direct and indirect costs of the 77202  
district, the county sanitary engineer or sanitary engineering 77203  
department, or a federal or state grant program, incurred for the 77204  
purposes of this chapter, and shall be applied second to the 77205  
payment of debt charges payable on any outstanding public 77206  
obligations issued or incurred for the acquisition or construction 77207  
of water supply facilities for or serving the district, or for the 77208  
funding of a bond retirement or other fund established for the 77209  
payment of or security for the obligations. Any surplus remaining 77210  
may be applied to the acquisition or construction of those 77211

facilities or for the payment of contributions to be made, or 77212  
costs incurred, for the acquisition or construction of those 77213  
facilities under cooperative contracts. Moneys in the water fund 77214  
shall not be expended other than for the use and benefit of the 77215  
district. 77216

(H) A board of county commissioners may adopt a cost 77217  
allocation plan that identifies, accumulates, and distributes 77218  
allowable direct and indirect costs that may be paid from the 77219  
water fund of the sewer district created pursuant to division (G) 77220  
of this section, and that prescribes methods for allocating those 77221  
costs. The plan shall authorize payment from the fund of only 77222  
those costs incurred by the district, the county sanitary engineer 77223  
or sanitary engineering department, or a federal or state grant 77224  
program, and those costs incurred by the general and other funds 77225  
of the county for a common or joint purpose, that are necessary 77226  
and reasonable for the proper and efficient administration of the 77227  
district under this chapter. The plan shall not authorize payment 77228  
from the fund of any general government expense required to carry 77229  
out the overall governmental responsibilities of a county. The 77230  
plan shall conform to United States office of management and 77231  
budget Circular A-87, "Cost Principles for State, Local, and 77232  
Indian Tribal Governments," published May 17, 1995. 77233

(I) A board of county commissioners shall not construct a 77234  
public water supply facility that is within the boundaries of a 77235  
regional water and sewer district established under Chapter 6119. 77236  
of the Revised Code and that is within one thousand feet of a 77237  
water resource project that is owned or operated by the district 77238  
if the project is financed in whole or in part by obligations 77239  
issued under Chapter 133., 6119., or 6121. of the Revised Code or 77240  
by obligations issued by the state unless the facility is for the 77241  
sole purpose of increasing water pressure in water transmission 77242  
lines owned or operated by the board and will not be used to sell 77243

or otherwise provide water to customers to which the district 77244  
supplies or may supply water from an existing water resource 77245  
project or unless the district gives consent to the construction 77246  
by adopting a resolution. 77247

**Sec. 6109.21.** (A) Except as provided in divisions (D) and (E) 77248  
of this section, on and after January 1, 1994, no person shall 77249  
operate or maintain a public water system in this state without a 77250  
license issued by the director of environmental protection. A 77251  
person who operates or maintains a public water system on January 77252  
1, 1994, shall obtain an initial license under this section in 77253  
accordance with the following schedule: 77254

(1) If the public water system is a community water system, 77255  
not later than January 31, 1994; 77256

(2) If the public water system is not a community water 77257  
system and serves a nontransient population, not later than 77258  
January 31, 1994; 77259

(3) If the public water system is not a community water 77260  
system and serves a transient population, not later than January 77261  
31, 1995. 77262

A person proposing to operate or maintain a new public water 77263  
system after January 1, 1994, in addition to complying with 77264  
section 6109.07 of the Revised Code and rules adopted under it, 77265  
shall submit an application for an initial license under this 77266  
section to the director prior to commencing operation of the 77267  
system. 77268

A license or license renewal issued under this section shall 77269  
be renewed annually. Such a license or license renewal shall 77270  
expire on the thirtieth day of January in the year following its 77271  
issuance. A license holder that proposes to continue operating the 77272  
public water system for which the license or license renewal was 77273

issued shall apply for a license renewal at least thirty days 77274  
prior to that expiration date. 77275

The director shall adopt, and may amend and rescind, rules in 77276  
accordance with Chapter 119. of the Revised Code establishing 77277  
procedures governing and information to be included on 77278  
applications for licenses and license renewals under this section. 77279  
Through June 30, ~~2004~~ 2006, each application shall be accompanied 77280  
by the appropriate fee established under division (M) of section 77281  
3745.11 of the Revised Code, provided that an applicant for an 77282  
initial license who is proposing to operate or maintain a new 77283  
public water system after January 1, 1994, shall submit a fee that 77284  
equals a prorated amount of the appropriate fee established under 77285  
that division for the remainder of the licensing year. 77286

(B) Not later than thirty days after receiving a completed 77287  
application and the appropriate license fee for an initial license 77288  
under division (A) of this section, the director shall issue the 77289  
license for the public water system. Not later than thirty days 77290  
after receiving a completed application and the appropriate 77291  
license fee for a license renewal under division (A) of this 77292  
section, the director shall do one of the following: 77293

(1) Issue the license renewal for the public water system; 77294

(2) Issue the license renewal subject to terms and conditions 77295  
that the director determines are necessary to ensure compliance 77296  
with this chapter and rules adopted under it; 77297

(3) Deny the license renewal if the director finds that the 77298  
public water system was not operated in substantial compliance 77299  
with this chapter and rules adopted under it. 77300

(C) The director may suspend or revoke a license or license 77301  
renewal issued under this section if the director finds that the 77302  
public water system was not operated in substantial compliance 77303  
with this chapter and rules adopted under it. The director shall 77304

adopt, and may amend and rescind, rules in accordance with Chapter 77305  
119. of the Revised Code governing such suspensions and 77306  
revocations. 77307

(D)(1) As used in division (D) of this section, "church" 77308  
means a fellowship of believers, congregation, society, 77309  
corporation, convention, or association that is formed primarily 77310  
or exclusively for religious purposes and that is not formed or 77311  
operated for the private profit of any person. 77312

(2) This section does not apply to a church that operates or 77313  
maintains a public water system solely to provide water for that 77314  
church or for a campground that is owned by the church and 77315  
operated primarily or exclusively for members of the church and 77316  
their families. A church that, on or before March 5, 1996, has 77317  
obtained a license under this section for such a public water 77318  
system need not obtain a license renewal under this section. 77319

(E) This section does not apply to any public or nonpublic 77320  
school that meets minimum standards of the state board of 77321  
education that operates or maintains a public water system solely 77322  
to provide water for that school. 77323

**Sec. 6111.06.** (A) All proceedings of the director of 77324  
environmental protection, ~~or his~~ of the director's officers or 77325  
agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to~~ 77326  
~~6111.38~~ of the Revised Code, including the adoption, issuance, 77327  
modification, rescission, or revocation of rules and regulations, 77328  
permits, orders, and notices, and the conduct of hearings, except 77329  
standards of water quality adopted pursuant to section 6111.041 of 77330  
the Revised Code, shall be subject to and governed by sections 77331  
119.01 to 119.13, and Chapter 3745. of the Revised Code. 77332

(B) The director shall not refuse to issue a permit, nor 77333  
modify or revoke a permit already issued, unless the applicant or 77334  
permit holder has been afforded an opportunity for a hearing prior 77335

to the refusal to issue the permit or prior to the modification or 77336  
revocation of the permit. 77337

(C) Whenever the director officially determines that an 77338  
emergency exists requiring immediate action to protect the public 77339  
health or welfare, ~~he~~ the director may, without notice or hearing, 77340  
issue an order reciting the existence of the emergency and 77341  
requiring that such action be taken as is necessary to meet the 77342  
emergency. Notwithstanding division (A) of this section, such 77343  
order shall be effective immediately. Any person to whom such 77344  
order is directed shall comply therewith immediately, but on 77345  
application to the director shall be afforded a hearing as soon as 77346  
possible, and not later than twenty days after such application. 77347  
On the basis of such hearing, the director shall continue such 77348  
order in effect, revoke it, or modify it. No such emergency order 77349  
shall remain in effect for more than sixty days after its 77350  
issuance. 77351

**Sec. 6115.09.** Within thirty days after the sanitary district 77352  
has been declared a corporation by the court, the clerk of such 77353  
court shall transmit to the secretary of state, and to the county 77354  
recorder in each of the counties having lands in said district, 77355  
copies of the findings and the decree of the court incorporating 77356  
said district. The same shall be filed and recorded in the office 77357  
of the secretary of state in the same manner as articles of 77358  
incorporation are required to be filed and recorded under the 77359  
general law concerning corporations. Copies shall also be filed 77360  
and become permanent records in the office of the recorder of each 77361  
county in which a part of the district lies. Each recorder shall 77362  
receive a base fee of one dollar for filing and preserving such 77363  
copies and a housing trust fund fee of one dollar pursuant to 77364  
section 317.36 of the Revised Code, and the secretary of state 77365  
shall receive for filing and for recording said copies such fees 77366  
as are provided by law for like services in similar cases. 77367

**Sec. 6117.02.** (A) The board of county commissioners shall fix 77368  
reasonable rates, including penalties for late payments, for the 77369  
use, or the availability for use, of the sanitary facilities of a 77370  
sewer district to be paid by every person and public agency whose 77371  
premises are served, or capable of being served, by a connection 77372  
directly or indirectly to those facilities when those facilities 77373  
are owned or operated by the county and may change the rates from 77374  
time to time as it considers advisable. When the sanitary 77375  
facilities to be used by the county are owned by another public 77376  
agency or person, the schedule of rates to be charged by the 77377  
public agency or person for the use of the facilities by the 77378  
county, or the formula or other procedure for their determination, 77379  
shall be approved by the board at the time it enters into a 77380  
contract for that use. 77381

(B) The board also shall establish reasonable charges to be 77382  
collected for the privilege of connecting to the sanitary 77383  
facilities of the district, with the requirement that, prior to 77384  
the connection, the charges shall be paid in full, or, if 77385  
determined by the board to be equitable in a resolution relating 77386  
to the payment of the charges, provision considered adequate by 77387  
the board shall be made for their payment in installments at the 77388  
times, in the amounts, and with the security, carrying charges, 77389  
and penalties as may be found by the board in that resolution to 77390  
be fair and appropriate. No public agency or person shall be 77391  
permitted to connect to those facilities until the charges have 77392  
been paid in full or provision for their payment in installments 77393  
has been made. If the connection charges are to be paid in 77394  
installments, the board shall certify to the county auditor 77395  
information sufficient to identify each parcel of property served 77396  
by a connection and, with respect to each parcel, the total of the 77397  
charges to be paid in installments, the amount of each 77398  
installment, and the total number of installments to be paid. The 77399

auditor shall record and maintain the information supplied in the 77400  
sewer improvement record provided for in section 6117.33 of the 77401  
Revised Code until the connection charges are paid in full. The 77402  
board may include amounts attributable to connection charges being 77403  
paid in installments in its billings of rates and charges for the 77404  
use of sanitary facilities. 77405

(C) When any of the sanitary rates or charges are not paid 77406  
when due, the board may do any or all of the following as it 77407  
considers appropriate: 77408

(1) Certify the unpaid rates or charges, together with any 77409  
penalties, to the county auditor, who shall place them upon the 77410  
real property tax list and duplicate against the property served 77411  
by the connection. The certified amount shall be a lien on the 77412  
property from the date placed on the real property tax list and 77413  
duplicate and shall be collected in the same manner as taxes, 77414  
except that, notwithstanding section 323.15 of the Revised Code, a 77415  
county treasurer shall accept a payment in that amount when 77416  
separately tendered as payment for the full amount of the unpaid 77417  
sanitary rates or charges and associated penalties. The lien shall 77418  
be released immediately upon payment in full of the certified 77419  
amount. 77420

(2) Collect the unpaid rates or charges, together with any 77421  
penalties, by actions at law in the name of the county from an 77422  
owner, tenant, or other person or public agency that is liable for 77423  
the payment of the rates or charges; 77424

(3) Terminate, in accordance with established rules, the 77425  
sanitary service to the particular property and, if so determined, 77426  
any county water service to that property, unless and until the 77427  
unpaid sanitary rates or charges, together with any penalties, are 77428  
paid in full; 77429

(4) Apply, to the extent required, any security deposit made 77430

in accordance with established rules to the payment of sanitary 77431  
rates and charges for service to the particular property. 77432

All moneys collected as sanitary rates, charges, or penalties 77433  
fixed or established in accordance with divisions (A) and (B) of 77434  
this section for any sewer district shall be paid to the county 77435  
treasurer and kept in a separate and distinct sanitary fund 77436  
established by the board to the credit of the district. Except as 77437  
otherwise provided in any proceedings authorizing or providing for 77438  
the security for and payment of any public obligations, or in any 77439  
indenture or trust or other agreement securing public obligations, 77440  
moneys in the sanitary fund shall be applied first to the payment 77441  
of the cost of the management, maintenance, and operation of the 77442  
sanitary facilities of, or used or operated for, the district, 77443  
which cost may include the county's share of management, 77444  
maintenance, and operation costs under cooperative contracts for 77445  
the acquisition, construction, or use of sanitary facilities and, 77446  
in accordance with a cost allocation plan adopted under division 77447  
(E) of this section, payment of all allowable direct and indirect 77448  
costs of the district, the county sanitary engineer or sanitary 77449  
engineering department, or a federal or state grant program, 77450  
incurred for sanitary purposes under this chapter, and shall be 77451  
applied second to the payment of debt charges payable on any 77452  
outstanding public obligations issued or incurred for the 77453  
acquisition or construction of sanitary facilities for or serving 77454  
the district, or for the funding of a bond retirement or other 77455  
fund established for the payment of or security for the 77456  
obligations. Any surplus remaining may be applied to the 77457  
acquisition or construction of those facilities or for the payment 77458  
of contributions to be made, or costs incurred, for the 77459  
acquisition or construction of those facilities under cooperative 77460  
contracts. Moneys in the sanitary fund shall not be expended other 77461  
than for the use and benefit of the district. 77462

(D) The board may fix reasonable rates and charges, including 77463  
connection charges and penalties for late payments, to be paid by 77464  
any person or public agency owning or having possession or control 77465  
of any properties that are connected with, capable of being served 77466  
by, or otherwise served directly or indirectly by, drainage 77467  
facilities owned or operated by or under the jurisdiction of the 77468  
county, including, but not limited to, properties requiring, or 77469  
lying within an area of the district requiring, in the judgment of 77470  
the board, the collection, control, or abatement of waters 77471  
originating or accumulating in, or flowing in, into, or through, 77472  
the district, and may change those rates and charges from time to 77473  
time as it considers advisable. The In addition, the board may fix 77474  
the rates and charges in order to pay the costs of complying with 77475  
the requirements of phase II of the storm water program of the 77476  
national pollutant discharge elimination system established in 40 77477  
C.F.R. part 122. 77478

The rates and charges shall be payable periodically as 77479  
determined by the board, except that any connection charges shall 77480  
be paid in full in one payment, or, if determined by the board to 77481  
be equitable in a resolution relating to the payment of those 77482  
charges, provision considered adequate by the board shall be made 77483  
for their payment in installments at the times, in the amounts, 77484  
and with the security, carrying charges, and penalties as may be 77485  
found by the board in that resolution to be fair and appropriate. 77486  
The board may include amounts attributable to connection charges 77487  
being paid in installments in its billings of rates and charges 77488  
for the services provided by the drainage facilities. In the case 77489  
of rates and charges that are fixed in order to pay the costs of 77490  
complying with the requirements of phase II of the storm water 77491  
program of the national pollutant discharge elimination system 77492  
established in 40 C.F.R. part 122, the rates and charges may be 77493  
paid annually or semiannually with real property taxes, provided 77494

that the board certifies to the county auditor information that is 77495  
sufficient for the auditor to identify each parcel of property for 77496  
which a rate or charge is levied and the amount of the rate or 77497  
charge. 77498

When any of the drainage rates or charges are not paid when 77499  
due, the board may do any or all of the following as it considers 77500  
appropriate: 77501

(1) Certify the unpaid rates or charges, together with any 77502  
penalties, to the county auditor, who shall place them upon the 77503  
real property tax list and duplicate against the property to which 77504  
the rates or charges apply. The certified amount shall be a lien 77505  
on the property from the date placed on the real property tax list 77506  
and duplicate and shall be collected in the same manner as taxes, 77507  
except that notwithstanding section 323.15 of the Revised Code, a 77508  
county treasurer shall accept a payment in that amount when 77509  
separately tendered as payment for the full amount of the unpaid 77510  
drainage rates or charges and associated penalties. The lien shall 77511  
be released immediately upon payment in full of the certified 77512  
amount. 77513

(2) Collect the unpaid rates or charges, together with any 77514  
penalties, by actions at law in the name of the county from an 77515  
owner, tenant, or other person or public agency that is liable for 77516  
the payment of the rates or charges; 77517

(3) Terminate, in accordance with established rules, the 77518  
drainage service for the particular property until the unpaid 77519  
rates or charges, together with any penalties, are paid in full; 77520

(4) Apply, to the extent required, any security deposit made 77521  
in accordance with established rules to the payment of drainage 77522  
rates and charges applicable to the particular property. 77523

All moneys collected as drainage rates, charges, or penalties 77524  
in or for any sewer district shall be paid to the county treasurer 77525

and kept in a separate and distinct drainage fund established by 77526  
the board to the credit of the district. Except as otherwise 77527  
provided in any proceedings authorizing or providing for the 77528  
security for and payment of any public obligations, or in any 77529  
indenture or trust or other agreement securing public obligations, 77530  
moneys in the drainage fund shall be applied first to the payment 77531  
of the cost of the management, maintenance, and operation of the 77532  
drainage facilities of, or used or operated for, the district, 77533  
which cost may include the county's share of management, 77534  
maintenance, and operation costs under cooperative contracts for 77535  
the acquisition, construction, or use of drainage facilities and, 77536  
in accordance with a cost allocation plan adopted under division 77537  
(E) of this section, payment of all allowable direct and indirect 77538  
costs of the district, the county sanitary engineer or sanitary 77539  
engineering department, or a federal or state grant program, 77540  
incurred for drainage purposes under this chapter, and shall be 77541  
applied second to the payment of debt charges payable on any 77542  
outstanding public obligations issued or incurred for the 77543  
acquisition or construction of drainage facilities for or serving 77544  
the district, or for the funding of a bond retirement or other 77545  
fund established for the payment of or security for the 77546  
obligations. Any surplus remaining may be applied to the 77547  
acquisition or construction of those facilities or for the payment 77548  
of contributions to be made, or costs incurred, for the 77549  
acquisition or construction of those facilities under cooperative 77550  
contracts. Moneys in the drainage fund shall not be expended other 77551  
than for the use and benefit of the district. 77552

(E) A board of county commissioners may adopt a cost 77553  
allocation plan that identifies, accumulates, and distributes 77554  
allowable direct and indirect costs that may be paid from each of 77555  
the funds of the district created pursuant to divisions (C) and 77556  
(D) of this section, and that prescribes methods for allocating 77557  
those costs. The plan shall authorize payment from each of those 77558

funds of only those costs incurred by the district, the county 77559  
sanitary engineer or sanitary engineering department, or a federal 77560  
or state grant program, and those costs incurred by the general 77561  
and other funds of the county for a common or joint purpose, that 77562  
are necessary and reasonable for the proper and efficient 77563  
administration of the district under this chapter and properly 77564  
attributable to the particular fund of the district. The plan 77565  
shall not authorize payment from either of the funds of any 77566  
general government expense required to carry out the overall 77567  
governmental responsibilities of a county. The plan shall conform 77568  
to United States office of management and budget Circular A-87, 77569  
"Cost Principles for State, Local, and Indian Tribal Governments," 77570  
published May 17, 1995. 77571

**Sec. 6119.06.** Upon the declaration of the court of common 77572  
pleas organizing the regional water and sewer district pursuant to 77573  
section 6119.04 of the Revised Code and upon the qualifying of its 77574  
board of trustees and the election of a president and a secretary, 77575  
said district shall exercise in its own name all the rights, 77576  
powers, and duties vested in it by Chapter 6119. of the Revised 77577  
Code, and, subject to such reservations, limitations and 77578  
qualifications as are set forth in this Chapter, such district 77579  
may: 77580

(A) Adopt bylaws for the regulation of its affairs, the 77581  
conduct of its business, and notice of its actions; 77582

(B) Adopt an official seal; 77583

(C) Maintain a principal office and suboffices at such places 77584  
within the district as it designates; 77585

(D) Sue and plead in its own name; be sued and impleaded in 77586  
its own name with respect to its contracts or torts of its 77587  
members, employees, or agents acting within the scope of their 77588  
employment, or to enforce its obligations and covenants made under 77589

sections 6119.09, 6119.12, and 6119.14 of the Revised Code. Any 77590  
such actions against the district shall be brought in the court of 77591  
common pleas of the county in which the principal office of the 77592  
district is located, or in the court of common pleas of the county 77593  
in which the cause of action arose, and all summonses, exceptions, 77594  
and notices of every kind shall be served on the district by 77595  
leaving a copy thereof at the principal office with the person in 77596  
charge thereof or with the secretary of the district. 77597

(E) Assume any liability or obligation of any person or 77598  
political subdivision, including a right on the part of such 77599  
district to indemnify and save harmless the other contracting 77600  
party from any loss, cost, or liability by reason of the failure, 77601  
refusal, neglect, or omission of such district to perform any 77602  
agreement assumed by it or to act or discharge any such 77603  
obligation; 77604

(F) Make loans and grants to political subdivisions for the 77605  
acquisition or construction of water resource projects by such 77606  
political subdivisions and adopt rules, regulations, and 77607  
procedures for making such loans and grants; 77608

(G) Acquire, construct, reconstruct, enlarge, improve, 77609  
furnish, equip, maintain, repair, operate, lease or rent to or 77610  
from, or contract for operation by or for, a political subdivision 77611  
or person, water resource projects within or without the district, 77612  
except that no water resource project shall be constructed within 77613  
one thousand feet of a water supply facility that is owned or 77614  
operated by a municipal corporation or a board of county 77615  
commissioners pursuant to Chapter 6103. of the Revised Code if the 77616  
facility is financed in whole or in part by obligations issued 77617  
under Chapter 133., 6103., or 6121. of the Revised Code or by 77618  
obligations issued by the state unless the project is for the sole 77619  
purpose of increasing water pressure in water transmission lines 77620  
owned or operated by the district and will not be used to sell or 77621

otherwise provide water to customers to which the municipal corporation or county supplies or may supply water from an existing water supply facility or unless the municipal corporation or the county, as applicable, gives consent to the construction by adopting an ordinance or a resolution;

(H) Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;

(I) Levy and collect taxes and special assessments;

(J) Issue bonds and notes and refunding bonds and notes as provided in Chapter 6119. of the Revised Code;

(K) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under Chapter 6119. of the Revised Code;

(L) Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;

(M) Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119. of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;

(N) Adopt rules and regulations to protect augmented flow by

the district in waters of the state, to the extent augmented by a 77653  
water resource project, from depletion so it will be available for 77654  
beneficial use, to provide standards for the withdrawal from 77655  
waters of the state of the augmented flow created by a water 77656  
resource project which is not returned to the waters of the state 77657  
so augmented, and to establish reasonable charges therefor, if 77658  
considered necessary by the district; 77659

(O) Make and enter into all contracts and agreements and 77660  
execute all instruments necessary or incidental to the performance 77661  
of its duties and the execution of its powers under Chapter 6119. 77662  
of the Revised Code; 77663

(P) Enter into contracts with any person or any political 77664  
subdivision to render services to such contracting party for any 77665  
service the district is authorized to provide; 77666

(Q) Make provision for, contract for, or sell any of its 77667  
by-products or waste; 77668

(R) Exercise the power of eminent domain in the manner 77669  
provided in Chapter 6119. of the Revised Code; 77670

(S) Remove or change the location of any fence, building, 77671  
railroad, canal, or other structure or improvement located in or 77672  
out of the district, and in case it is not feasible or economical 77673  
to move any such building, structure, or improvement situated in 77674  
or upon lands required, and if the cost is determined by the board 77675  
to be less than that of purchase or condemnation, to acquire land 77676  
and construct, acquire, or install therein or thereon buildings, 77677  
structures, or improvements similar in purpose, to be exchanged 77678  
for such buildings, structures, or improvements under contracts 77679  
entered into between the owner thereof and the district; 77680

(T) Receive and accept, from any federal or state agency, 77681  
grants for or in aid of the construction of any water resource 77682  
project, and receive and accept aid or contributions from any 77683

source of money, property, labor, or other things of value, to be 77684  
held, used, and applied only for the purposes for which such 77685  
grants and contributions are made; 77686

(U) Purchase fire and extended coverage and liability 77687  
insurance for any water resource project and for the principal 77688  
office and suboffices of the district, insurance protecting the 77689  
district and its officers and employees against liability for 77690  
damage to property or injury to or death of persons arising from 77691  
its operations, and any other insurance the district may agree to 77692  
provide under any resolution authorizing its water resource 77693  
revenue bonds or in any trust agreement securing the same; 77694

(V) Charge, alter, and collect rentals and other charges for 77695  
the use of services of any water resource project as provided in 77696  
section 6119.09 of the Revised Code. Such district may refuse the 77697  
services of any of its projects if any of such rentals or other 77698  
charges, including penalties for late payment, are not paid by the 77699  
user thereof, and, if such rentals or other charges are not paid 77700  
when due and upon certification of nonpayment to the county 77701  
auditor, such rentals or other charges constitute a lien upon the 77702  
property so served, shall be placed by ~~him~~ the auditor upon the 77703  
real property tax list and duplicate, and shall be collected in 77704  
the same manner as other taxes; 77705

(W) Provide coverage for its employees under Chapters 145., 77706  
4123., and 4141. of the Revised Code; 77707

(X) Merge or combine with any other regional water and sewer 77708  
district into a single district, which shall be one of the 77709  
constituent districts, on terms so that the surviving district 77710  
shall be possessed of all rights, capacity, privileges, powers, 77711  
franchises, and authority of the constituent districts and shall 77712  
be subject to all the liabilities, obligations, and duties of each 77713  
of the constituent districts and all rights of creditors of such 77714  
constituent districts shall be preserved unimpaired, limited in 77715

lien to the property affected by such liens immediately prior to 77716  
the time of the merger and all debts, liabilities, and duties of 77717  
the respective constituent districts shall thereafter attach to 77718  
the surviving district and may be enforced against it, and such 77719  
other terms as are agreed upon, provided two-thirds of the members 77720  
of each of the boards consent to such merger or combination. Such 77721  
merger or combination shall become legally effective unless, prior 77722  
to the ninetieth day following the later of the consents, 77723  
qualified electors residing in either district equal in number to 77724  
a majority of the qualified electors voting at the last general 77725  
election in such district file with the secretary of the board of 77726  
trustees of their regional water and sewer district a petition of 77727  
remonstrance against such merger or combination. The secretary 77728  
shall cause the board of elections of the proper county or 77729  
counties to check the sufficiency of the signatures on such 77730  
petition. 77731

(Y) Exercise the powers of the district without obtaining the 77732  
consent of any other political subdivision, provided that all 77733  
public or private property damaged or destroyed in carrying out 77734  
the powers of the district shall be restored or repaired and 77735  
placed in its original condition as nearly as practicable or 77736  
adequate compensation made therefor by the district; 77737

(Z) Require the owner of any premises located within the 77738  
district to connect ~~his~~ the owner's premises to a water resource 77739  
project determined to be accessible to such premises and found to 77740  
require such connection so as to prevent or abate pollution or 77741  
protect the health and property of persons in the district. Such 77742  
connection shall be made in accordance with procedures established 77743  
by the board of trustees of such district and pursuant to such 77744  
orders as the board may find necessary to ensure and enforce 77745  
compliance with such procedures~~+~~. 77746

(AA) Do all acts necessary or proper to carry out the powers 77747

granted in Chapter 6119. of the Revised Code. 77748

**Sec. 6119.10.** The board of trustees of a regional water and 77749  
sewer district or any officer or employee designated by the board 77750  
may make any contract for the purchase of supplies or material or 77751  
for labor for any work, under the supervision of the board, the 77752  
cost of which shall not exceed ~~fifteen~~ twenty-five thousand 77753  
dollars. When an expenditure, other than for the acquisition of 77754  
real estate and interests in real estate, the discharge of 77755  
noncontractual claims, personal services, the joint use of 77756  
facilities or the exercise of powers with other political 77757  
subdivisions, or the product or services of public utilities, 77758  
exceeds ~~fifteen~~ twenty-five thousand dollars, the expenditures 77759  
shall be made only after a notice calling for bids has been 77760  
published not less than two consecutive weeks in at least one 77761  
newspaper having a general circulation within the district. If the 77762  
bids are for a contract for the construction, demolition, 77763  
alteration, repair, or reconstruction of an improvement, the board 77764  
may let the contract to the lowest and best bidder who meets the 77765  
requirements of section 153.54 of the Revised Code. If the bids 77766  
are for a contract for any other work relating to the improvements 77767  
for which a regional water and sewer district was established, the 77768  
board of trustees of the regional water and sewer district may let 77769  
the contract to the lowest or best bidder who gives a good and 77770  
approved bond with ample security conditioned on the carrying out 77771  
of the contract. The contract shall be in writing and shall be 77772  
accompanied by or shall refer to plans and specifications for the 77773  
work to be done, approved by the board. The plans and 77774  
specifications shall at all times be made and considered part of 77775  
the contract. The contract shall be approved by the board and 77776  
signed by its president or other duly authorized officer and by 77777  
the contractor. In case of a real and present emergency, the board 77778  
of trustees of the district, by two-thirds vote of all members, 77779

may authorize the president or other duly authorized officer to 77780  
enter into a contract for work to be done or for the purchase of 77781  
supplies or materials without formal bidding or advertising. All 77782  
contracts shall have attached the certificate required by section 77783  
5705.41 of the Revised Code duly executed by the secretary of the 77784  
board of trustees of the district. The district may make 77785  
improvements by force account or direct labor, provided that, if 77786  
the estimated cost of supplies or material for any such 77787  
improvement exceeds ~~fifteen~~ twenty-five thousand dollars, bids 77788  
shall be received as provided in this section. For the purposes of 77789  
the competitive bidding requirements of this section, the board 77790  
shall not sever a contract for supplies or materials and labor 77791  
into separate contracts for labor, supplies, or materials if the 77792  
contracts are in fact a part of a single contract required to be 77793  
bid competitively under this section. 77794

**Sec. 6301.05.** The chief elected official of a ~~municipal~~ 77795  
~~corporation that is the type of~~ local area defined in division 77796  
~~(A)(1) of section 6301.01 of the Revised Code or is in the type of~~ 77797  
~~local area defined in division (A)(3) of that section~~ shall enter 77798  
into a written ~~partnership~~ grant agreement with the director of 77799  
job and family services in accordance with section ~~5101.213~~ 77800  
5101.20 of the Revised Code. 77801

~~The board of county commissioners of a county that is the~~ 77802  
~~type of local area defined in division (A)(2) of section 6301.01~~ 77803  
~~of the Revised Code or is in the type of local area defined in~~ 77804  
~~division (A)(3) of that section shall enter into a written~~ 77805  
~~partnership agreement with the director of job and family services~~ 77806  
~~in accordance with section 5101.21 of the Revised Code.~~ 77807

A grant agreement entered into pursuant to this section shall 77808  
include the responsibility of municipal corporations and the board 77809  
of county commissioners to be accountable to the department of job 77810

and family services for the use of funds provided through the 77811  
"Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, 77812  
as amended, including regulations issued by the United States 77813  
department of labor pursuant to that act. 77814

**Sec. 6301.07.** (A) Every workforce policy board, with the 77815  
agreement of the chief elected officials of the local area, and 77816  
after holding public hearings that allow public comment and 77817  
testimony, shall prepare a workforce development plan ~~and~~ 77818  
~~incorporate that plan into and attach that plan to the partnership~~ 77819  
~~agreement required under section 6301.05 of the Revised Code.~~ The 77820  
plan shall accomplish all of the following: 77821

(1) Identify the workforce investment needs of businesses in 77822  
the local area, identify projected employment opportunities, and 77823  
identify the job skills necessary to obtain those opportunities; 77824

(2) Identify the local area's workforce development needs for 77825  
youth, dislocated workers, adults, displaced homemakers, incumbent 77826  
workers, and any other group of workers identified by the 77827  
workforce policy board; 77828

(3) Determine the distribution of workforce development 77829  
resources and funding to be distributed for each workforce 77830  
development activity to meet the identified needs, utilizing the 77831  
funds allocated pursuant to the "Workforce Investment Act of 77832  
1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended; 77833

(4) Give priority to youth receiving independent living 77834  
services pursuant to sections 2151.81 to 2151.84 of the Revised 77835  
Code when determining distribution of workforce development 77836  
resources and workforce development activity funding; 77837

(5) Review the minimum curriculum required by the state 77838  
workforce policy board for certifying training providers and 77839  
identify any additional curriculum requirements to include in 77840

contracts between the training providers and the chief elected officials of the local area;	77841 77842
(6) Establish performance standards for service providers that reflect local workforce development needs;	77843 77844
(7) Describe any other information the chief elected officials of the local area require.	77845 77846
(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.	77847 77848 77849
(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.	77850 77851 77852 77853 77854 77855 77856 77857 77858
<b>Section 2.</b> That existing sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.57, 109.572, 109.71, 117.101, 117.16, 117.44, 117.45, 119.035, 121.04, 121.08, 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,	77859 77860 77861 77862 77863 77864 77865 77866 77867 77868 77869 77870 77871

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5743.46, 5747.131, 5747.60, 6111.31, 6113.311, 6111.32, 6111.34, 77983  
6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised 77984  
Code are hereby repealed. 77985

**Section 3.01.** That the version of section 921.22 of the 77986  
Revised Code that is scheduled to take effect July 1, 2004, be 77987  
amended to read as follows: 77988

**Sec. 921.22.** The pesticide program fund is hereby created in 77989  
the state treasury. ~~All~~ The portion of the money in the fund that 77990  
is collected under this chapter shall be used to carry out the 77991  
purposes of this chapter. The portion of the money in the fund 77992  
that is collected under section 927.53 of the Revised Code shall 77993  
be used to carry out the purposes specified in that section, the 77994  
portion of the money in the fund that is collected under section 77995  
927.69 of the Revised Code shall be used to carry out the purposes 77996  
specified in that section, and the portion of the money in the 77997  
fund that is collected under section 927.701 of the Revised Code 77998  
shall be used to carry out the purposes of that section. The fund 77999  
shall consist of fees collected under sections 921.01 to 921.15, 78000  
division (F) of section 927.53, and section 927.69 of the Revised 78001

Code, money collected under section 927.701 of the Revised Code, 78002  
and all fines, penalties, costs, and damages, except court costs, 78003  
that are collected by either the director of agriculture or the 78004  
attorney general in consequence of any violation of this chapter. 78005

**Section 3.02.** That the existing version of section 921.22 of 78006  
the Revised Code that is scheduled to take effect July 1, 2004, is 78007  
hereby repealed. 78008

**Section 3.03.** Sections 3.01 and 3.02 of this act take effect 78009  
July 1, 2004. 78010

**Section 3.04.** That the version of section 3332.04 of the 78011  
Revised Code that is scheduled to take effect on July 1, 2003, be 78012  
amended to read as follows: 78013

**Sec. 3332.04.** The state board of career colleges and schools 78014  
may appoint an executive director and such other staff as may be 78015  
required for the performance of the board's duties and provide 78016  
necessary facilities. In selecting an executive director, the 78017  
board shall appoint an individual with a background or experience 78018  
in the regulation of commerce, business, or education. The board 78019  
may also arrange for services and facilities to be provided by the 78020  
state board of education and the Ohio board of regents. All 78021  
receipts of the board shall be deposited in the ~~career colleges~~ 78022  
~~and schools operating fund, which is hereby created in the state~~ 78023  
~~treasury. Moneys in the fund shall be used solely for the~~ 78024  
~~administration and enforcement of Chapter 3332. of the Revised~~ 78025  
~~Code. All investment earnings on the fund shall be credited to the~~ 78026  
to the credit of the occupational licensing and regulatory fund. 78027

**Section 3.05.** That the version of section 3332.04 of the 78028  
Revised Code that is scheduled to take effect on July 1, 2003, is 78029

hereby repealed.	78030
<b>Section 3.06.</b> Sections 3.04 and 3.05 of this act take effect July 1, 2003.	78031 78032
<b>Section 3.06A.</b> That the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:	78033 78034 78035
<b>Sec. 2305.234.</b> (A) As used in this section:	78036
(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.	78037 78038 78039
(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.	78040 78041 78042 78043
(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.	78044 78045
(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	78046 78047 78048
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	78049 78050 78051
(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	78052 78053
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	78054 78055
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	78056 78057

(e) Physical therapists licensed under Chapter 4755. of the Revised Code; 78058  
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(f) Chiropractors licensed under Chapter 4734. of the Revised Code; 78060  
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(g) Optometrists licensed under Chapter 4725. of the Revised Code; 78062  
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(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry; 78064  
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(i) Dietitians licensed under Chapter 4759. of the Revised Code; 78066  
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(j) Pharmacists licensed under Chapter 4729. of the Revised Code; 78068  
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(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code. 78070  
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(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. 78074  
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(6) "Indigent and uninsured person" means a person who meets all of the following requirements: 78081  
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(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. 78083  
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(b) The person is not eligible to receive medical assistance 78088  
under Chapter 5111., disability ~~assistance~~ medical assistance 78089  
under Chapter 5115. of the Revised Code, or assistance under any 78090  
other governmental health care program. 78091

(c) Either of the following applies: 78092

(i) The person is not a policyholder, certificate holder, 78093  
insured, contract holder, subscriber, enrollee, member, 78094  
beneficiary, or other covered individual under a health insurance 78095  
or health care policy, contract, or plan. 78096

(ii) The person is a policyholder, certificate holder, 78097  
insured, contract holder, subscriber, enrollee, member, 78098  
beneficiary, or other covered individual under a health insurance 78099  
or health care policy, contract, or plan, but the insurer, policy, 78100  
contract, or plan denies coverage or is the subject of insolvency 78101  
or bankruptcy proceedings in any jurisdiction. 78102

(7) "Operation" means any procedure that involves cutting or 78103  
otherwise infiltrating human tissue by mechanical means, including 78104  
surgery, laser surgery, ionizing radiation, therapeutic 78105  
ultrasound, or the removal of intraocular foreign bodies. 78106  
"Operation" does not include the administration of medication by 78107  
injection, unless the injection is administered in conjunction 78108  
with a procedure infiltrating human tissue by mechanical means 78109  
other than the administration of medicine by injection. 78110

(8) "Nonprofit shelter or health care facility" means a 78111  
charitable nonprofit corporation organized and operated pursuant 78112  
to Chapter 1702. of the Revised Code, or any charitable 78113  
organization not organized and not operated for profit, that 78114  
provides shelter, health care services, or shelter and health care 78115  
services to indigent and uninsured persons, except that "shelter 78116  
or health care facility" does not include a hospital as defined in 78117  
section 3727.01 of the Revised Code, a facility licensed under 78118

Chapter 3721. of the Revised Code, or a medical facility that is 78119  
operated for profit. 78120

(9) "Tort action" means a civil action for damages for 78121  
injury, death, or loss to person or property other than a civil 78122  
action for damages for a breach of contract or another agreement 78123  
between persons or government entities. 78124

(10) "Volunteer" means an individual who provides any 78125  
medical, dental, or other health-care related diagnosis, care, or 78126  
treatment without the expectation of receiving and without receipt 78127  
of any compensation or other form of remuneration from an indigent 78128  
and uninsured person, another person on behalf of an indigent and 78129  
uninsured person, any shelter or health care facility, or any 78130  
other person or government entity. 78131

(11) "Community control sanction" has the same meaning as in 78132  
section 2929.01 of the Revised Code. 78133

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 78134  
health care professional who is a volunteer and complies with 78135  
division (B)(2) of this section is not liable in damages to any 78136  
person or government entity in a tort or other civil action, 78137  
including an action on a medical, dental, chiropractic, 78138  
optometric, or other health-related claim, for injury, death, or 78139  
loss to person or property that allegedly arises from an action or 78140  
omission of the volunteer in the provision at a nonprofit shelter 78141  
or health care facility to an indigent and uninsured person of 78142  
medical, dental, or other health-related diagnosis, care, or 78143  
treatment, including the provision of samples of medicine and 78144  
other medical products, unless the action or omission constitutes 78145  
willful or wanton misconduct. 78146

(2) To qualify for the immunity described in division (B)(1) 78147  
of this section, a health care professional shall do all of the 78148  
following prior to providing diagnosis, care, or treatment: 78149

(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 78181  
damages to any person or government entity in a tort or other 78182  
civil action, including an action on a medical, dental, 78183  
chiropractic, optometric, or other health-related claim, for 78184  
injury, death, or loss to person or property that allegedly arises 78185  
from an action or omission of the health care professional or 78186  
worker in providing for the shelter or facility medical, dental, 78187  
or other health-related diagnosis, care, or treatment to an 78188  
indigent and uninsured person, unless the action or omission 78189  
constitutes willful or wanton misconduct. 78190

(E)(1) Except as provided in division (E)(2) of this section, 78191  
the immunities provided by divisions (B), (C), and (D) of this 78192  
section are not available to an individual or to a nonprofit 78193  
shelter or health care facility if, at the time of an alleged 78194  
injury, death, or loss to person or property, the individuals 78195  
involved are providing one of the following: 78196

(a) Any medical, dental, or other health-related diagnosis, 78197  
care, or treatment pursuant to a community service work order 78198  
entered by a court under division (B) of section 2951.02 of the 78199  
Revised Code or imposed by a court as a community control 78200  
sanction; 78201

(b) Performance of an operation; 78202

(c) Delivery of a baby. 78203

(2) Division (E)(1) of this section does not apply to an 78204  
individual who provides, or a nonprofit shelter or health care 78205  
facility at which the individual provides, diagnosis, care, or 78206  
treatment that is necessary to preserve the life of a person in a 78207  
medical emergency. 78208

(F)(1) This section does not create a new cause of action or 78209  
substantive legal right against a health care professional, health 78210  
care worker, or nonprofit shelter or health care facility. 78211

(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 78240  
the contrary, no permit or license shall be issued or renewed by 78241  
the director of environmental protection, ~~the hazardous waste~~ 78242  
~~facility board,~~ or a board of health: 78243

(A) Unless the director, ~~the hazardous waste facility board,~~ 78244  
or the board of health finds that the applicant, in any prior 78245  
performance record in the transportation, transfer, treatment, 78246  
storage, or disposal of solid wastes, infectious wastes, or 78247  
hazardous waste, has exhibited sufficient reliability, expertise, 78248  
and competency to operate the solid waste, infectious waste, or 78249  
hazardous waste facility, given the potential for harm to human 78250  
health and the environment that could result from the 78251  
irresponsible operation of the facility, or, if no prior record 78252  
exists, that the applicant is likely to exhibit that reliability, 78253  
expertise, and competence; 78254

(B) If any individual or business concern required to be 78255  
listed in the disclosure statement or shown to have a beneficial 78256  
interest in the business of the applicant or the permittee, other 78257  
than an equity interest or debt liability, by the investigation 78258  
thereof, has been convicted of any of the following crimes under 78259  
the laws of this state or equivalent laws of any other 78260  
jurisdiction: 78261

- (1) Murder; 78262
- (2) Kidnapping; 78263
- (3) Gambling; 78264
- (4) Robbery; 78265
- (5) Bribery; 78266
- (6) Extortion; 78267
- (7) Criminal usury; 78268

(8) Arson;	78269
(9) Burglary;	78270
(10) Theft and related crimes;	78271
(11) Forgery and fraudulent practices;	78272
(12) Fraud in the offering, sale, or purchase of securities;	78273
(13) Alteration of motor vehicle identification numbers;	78274
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	78275 78276
(15) Unlawful possession or use of destructive devices or explosives;	78277 78278
(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;	78279 78280 78281 78282 78283 78284 78285
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	78286 78287
(18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;	78288 78289
(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;	78290 78291 78292 78293
(20) A violation of any provision of Chapter 2909. of the Revised Code;	78294 78295
(21) Any offense specified in Chapter 2921. of the Revised Code.	78296 78297

(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; 78328  
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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; 78330  
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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. 78336  
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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; 78351  
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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 78357  
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prosecutions or pending charges in any jurisdiction for any of the 78359  
offenses enumerated in division (B) of this section against any 78360  
individual or business concern required to be listed in the 78361  
disclosure statement or shown by the investigation to have a 78362  
beneficial interest in the business of the applicant other than an 78363  
equity interest or debt liability are of such magnitude that they 78364  
prevent making the finding required under division (A) of this 78365  
section, provided that at the request of the applicant or the 78366  
individual or business concern charged, the director ~~or the~~ 78367  
~~hazardous waste facility board~~ shall defer decision upon the 78368  
application during the pendency of the charge. 78369

**Section 3.06E.** That the existing version of section 3734.44 78370  
of the Revised Code that is scheduled to take effect on January 1, 78371  
2004, is hereby repealed. 78372

**Section 3.06F.** Sections 3.06D and 3.06E of this act take 78373  
effect January 1, 2004. 78374

**Section 3.07.** That the versions of sections 307.93, 2152.19, 78375  
2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 78376  
4511.63, and 4511.75 of the Revised Code that are scheduled to 78377  
take effect January 1, 2004, be amended to read as follows: 78378

**Sec. 307.93.** (A) The boards of county commissioners of two or 78379  
more adjacent counties may contract for the joint establishment of 78380  
a multicounty correctional center, and the board of county 78381  
commissioners of a county or the boards of two or more counties 78382  
may contract with any municipal corporation or municipal 78383  
corporations located in that county or those counties for the 78384  
joint establishment of a municipal-county or multicounty-municipal 78385  
correctional center. The center shall augment county and, where 78386  
applicable, municipal jail programs and facilities by providing 78387

custody and rehabilitative programs for those persons under the 78388  
charge of the sheriff of any of the contracting counties or of the 78389  
officer or officers of the contracting municipal corporation or 78390  
municipal corporations having charge of persons incarcerated in 78391  
the municipal jail, workhouse, or other correctional facility who, 78392  
in the opinion of the sentencing court, need programs of custody 78393  
and rehabilitation not available at the county or municipal jail 78394  
and by providing custody and rehabilitative programs in accordance 78395  
with division (C) of this section, if applicable. The contract may 78396  
include, but need not be limited to, provisions regarding the 78397  
acquisition, construction, maintenance, repair, termination of 78398  
operations, and administration of the center. The contract shall 78399  
prescribe the manner of funding of, and debt assumption for, the 78400  
center and the standards and procedures to be followed in the 78401  
operation of the center. Except as provided in division (H) of 78402  
this section, the contracting counties and municipal corporations 78403  
shall form a corrections commission to oversee the administration 78404  
of the center. Members of the commission shall consist of the 78405  
sheriff of each participating county, the president of the board 78406  
of county commissioners of each participating county, the 78407  
presiding judge of the court of common pleas of each participating 78408  
county, or, if the court of common pleas of a participating county 78409  
has only one judge, then that judge, the chief of police of each 78410  
participating municipal corporation, the mayor or city manager of 78411  
each participating municipal corporation, and the presiding judge 78412  
or the sole judge of the municipal court of each participating 78413  
municipal corporation. Any of the foregoing officers may appoint a 78414  
designee to serve in the officer's place on the corrections 78415  
commission. The standards and procedures shall be formulated and 78416  
agreed to by the commission and may be amended at any time during 78417  
the life of the contract by agreement of the parties to the 78418  
contract upon the advice of the commission. The standards and 78419  
procedures formulated by the commission shall include, but need 78420

not be limited to, designation of the person in charge of the 78421  
center, the categories of employees to be employed at the center, 78422  
the appointing authority of the center, and the standards of 78423  
treatment and security to be maintained at the center. The person 78424  
in charge of, and all persons employed to work at, the center 78425  
shall have all the powers of police officers that are necessary 78426  
for the proper performance of the duties relating to their 78427  
positions at the center. 78428

(B) Each board of county commissioners that enters a contract 78429  
under division (A) of this section may appoint a building 78430  
commission pursuant to section 153.21 of the Revised Code. If any 78431  
commissions are appointed, they shall function jointly in the 78432  
construction of a multicounty or multicounty-municipal 78433  
correctional center with all the powers and duties authorized by 78434  
law. 78435

(C) Prior to the acceptance for custody and rehabilitation 78436  
into a center established under this section of any persons who 78437  
are designated by the department of rehabilitation and correction, 78438  
who plead guilty to or are convicted of a felony of the fourth or 78439  
fifth degree, and who satisfy the other requirements listed in 78440  
section 5120.161 of the Revised Code, the corrections commission 78441  
of a center established under this section shall enter into an 78442  
agreement with the department of rehabilitation and correction 78443  
under section 5120.161 of the Revised Code for the custody and 78444  
rehabilitation in the center of persons who are designated by the 78445  
department, who plead guilty to or are convicted of a felony of 78446  
the fourth or fifth degree, and who satisfy the other requirements 78447  
listed in that section, in exchange for a per diem fee per person. 78448  
Persons incarcerated in the center pursuant to an agreement 78449  
entered into under this division shall be subject to supervision 78450  
and control in the manner described in section 5120.161 of the 78451  
Revised Code. This division does not affect the authority of a 78452

court to directly sentence a person who is convicted of or pleads 78453  
guilty to a felony to the center in accordance with section 78454  
2929.16 of the Revised Code. 78455

(D) Pursuant to section 2929.37 of the Revised Code, each 78456  
board of county commissioners and the legislative authority of 78457  
each municipal corporation that enters into a contract under 78458  
division (A) of this section may require a person who was 78459  
convicted of an offense, who is under the charge of the sheriff of 78460  
their county or of the officer or officers of the contracting 78461  
municipal corporation or municipal corporations having charge of 78462  
persons incarcerated in the municipal jail, workhouse, or other 78463  
correctional facility, and who is confined in the multicounty, 78464  
municipal-county, or multicounty-municipal correctional center as 78465  
provided in that division, to reimburse the applicable county or 78466  
municipal corporation for its expenses incurred by reason of the 78467  
person's confinement in the center. 78468

(E) Notwithstanding any contrary provision in this section or 78469  
section 2929.18, 2929.28, or 2929.37 of the Revised Code, the 78470  
corrections commission of a center may establish a policy that 78471  
complies with section 2929.38 of the Revised Code and that 78472  
requires any person who is not indigent and who is confined in the 78473  
multicounty, municipal-county, or multicounty-municipal 78474  
correctional center to pay a reception fee, a fee for medical 78475  
treatment or service requested by and provided to that person, or 78476  
the fee for a random drug test assessed under division (E) of 78477  
section 341.26 of the Revised Code. 78478

(F)(1) The corrections commission of a center established 78479  
under this section may establish a commissary for the center. The 78480  
commissary may be established either in-house or by another 78481  
arrangement. If a commissary is established, all persons 78482  
incarcerated in the center shall receive commissary privileges. A 78483  
person's purchases from the commissary shall be deducted from the 78484

person's account record in the center's business office. The 78485  
commissary shall provide for the distribution to indigent persons 78486  
incarcerated in the center of necessary hygiene articles and 78487  
writing materials. 78488

(2) If a commissary is established, the corrections 78489  
commission of a center established under this section shall 78490  
establish a commissary fund for the center. The management of 78491  
funds in the commissary fund shall be strictly controlled in 78492  
accordance with procedures adopted by the auditor of state. 78493  
Commissary fund revenue over and above operating costs and reserve 78494  
shall be considered profits. All profits from the commissary fund 78495  
shall be used to purchase supplies and equipment for the benefit 78496  
of persons incarcerated in the center and to pay salary and 78497  
benefits for employees of the center, or for any other persons, 78498  
who work in or are employed for the sole purpose of providing 78499  
service to the commissary. The corrections commission shall adopt 78500  
rules and regulations for the operation of any commissary fund it 78501  
establishes. 78502

(G) In lieu of forming a corrections commission to administer 78503  
a multicounty correctional center or a municipal-county or 78504  
multicounty-municipal correctional center, the boards of county 78505  
commissioners and the legislative authorities of the municipal 78506  
corporations contracting to establish the center may also agree to 78507  
contract for the private operation and management of the center as 78508  
provided in section 9.06 of the Revised Code, but only if the 78509  
center houses only misdemeanor inmates. In order to enter into a 78510  
contract under section 9.06 of the Revised Code, all the boards 78511  
and legislative authorities establishing the center shall approve 78512  
and be parties to the contract. 78513

(H) If a person who is convicted of or pleads guilty to an 78514  
offense is sentenced to a term in a multicounty correctional 78515  
center or a municipal-county or multicounty-municipal correctional 78516

center or is incarcerated in the center in the manner described in 78517  
division (C) of this section, or if a person who is arrested for 78518  
an offense, and who has been denied bail or has had bail set and 78519  
has not been released on bail is confined in a multicounty 78520  
correctional center or a municipal-county or multicounty-municipal 78521  
correctional center pending trial, at the time of reception and at 78522  
other times the officer, officers, or other person in charge of 78523  
the operation of the center determines to be appropriate, the 78524  
officer, officers, or other person in charge of the operation of 78525  
the center may cause the convicted or accused offender to be 78526  
examined and tested for tuberculosis, HIV infection, hepatitis, 78527  
including but not limited to hepatitis A, B, and C, and other 78528  
contagious diseases. The officer, officers, or other person in 78529  
charge of the operation of the center may cause a convicted or 78530  
accused offender in the center who refuses to be tested or treated 78531  
for tuberculosis, HIV infection, hepatitis, including but not 78532  
limited to hepatitis A, B, and C, or another contagious disease to 78533  
be tested and treated involuntarily. 78534

(I) As used in this section, "multicounty-municipal" means 78535  
more than one county and a municipal corporation, or more than one 78536  
municipal corporation and a county, or more than one municipal 78537  
corporation and more than one county. 78538

**Sec. 2152.19.** (A) If a child is adjudicated a delinquent 78539  
child, the court may make any of the following orders of 78540  
disposition, in addition to any other disposition authorized or 78541  
required by this chapter: 78542

(1) Any order that is authorized by section 2151.353 of the 78543  
Revised Code for the care and protection of an abused, neglected, 78544  
or dependent child; 78545

(2) Commit the child to the temporary custody of any school, 78546  
camp, institution, or other facility operated for the care of 78547

delinquent children by the county, by a district organized under 78548  
section 2152.41 or 2151.65 of the Revised Code, or by a private 78549  
agency or organization, within or without the state, that is 78550  
authorized and qualified to provide the care, treatment, or 78551  
placement required, including, but not limited to, a school, camp, 78552  
or facility operated under section 2151.65 of the Revised Code; 78553

(3) Place the child in a detention facility or district 78554  
detention facility operated under section 2152.41 of the Revised 78555  
Code, for up to ninety days; 78556

(4) Place the child on community control under any sanctions, 78557  
services, and conditions that the court prescribes. As a condition 78558  
of community control in every case and in addition to any other 78559  
condition that it imposes upon the child, the court shall require 78560  
the child to abide by the law during the period of community 78561  
control. As referred to in this division, community control 78562  
includes, but is not limited to, the following sanctions and 78563  
conditions: 78564

(a) A period of basic probation supervision in which the 78565  
child is required to maintain contact with a person appointed to 78566  
supervise the child in accordance with sanctions imposed by the 78567  
court; 78568

(b) A period of intensive probation supervision in which the 78569  
child is required to maintain frequent contact with a person 78570  
appointed by the court to supervise the child while the child is 78571  
seeking or maintaining employment and participating in training, 78572  
education, and treatment programs as the order of disposition; 78573

(c) A period of day reporting in which the child is required 78574  
each day to report to and leave a center or another approved 78575  
reporting location at specified times in order to participate in 78576  
work, education or training, treatment, and other approved 78577  
programs at the center or outside the center; 78578

(d) A period of community service of up to five hundred hours 78579  
for an act that would be a felony or a misdemeanor of the first 78580  
degree if committed by an adult, up to two hundred hours for an 78581  
act that would be a misdemeanor of the second, third, or fourth 78582  
degree if committed by an adult, or up to thirty hours for an act 78583  
that would be a minor misdemeanor if committed by an adult; 78584

(e) A requirement that the child obtain a high school 78585  
diploma, a certificate of high school equivalence, vocational 78586  
training, or employment; 78587

(f) A period of drug and alcohol use monitoring; 78588

(g) A requirement of alcohol or drug assessment or 78589  
counseling, or a period in an alcohol or drug treatment program 78590  
with a level of security for the child as determined necessary by 78591  
the court; 78592

(h) A period in which the court orders the child to observe a 78593  
curfew that may involve daytime or evening hours; 78594

(i) A requirement that the child serve monitored time; 78595

(j) A period of house arrest with or without electronic 78596  
monitoring; 78597

(k) A period of electronic monitoring without house arrest or 78598  
electronically monitored house arrest that does not exceed the 78599  
maximum sentence of imprisonment that could be imposed upon an 78600  
adult who commits the same act. 78601

A period of electronically monitored house arrest imposed 78602  
under this division shall not extend beyond the child's 78603  
twenty-first birthday. If a court imposes a period of 78604  
electronically monitored house arrest upon a child under this 78605  
division, it shall require the child: to wear, otherwise have 78606  
attached to the child's person, or otherwise be subject to 78607  
monitoring by a certified electronic monitoring device or to 78608

participate in the operation of and monitoring by a certified 78609  
electronic monitoring system; to remain in the child's home or 78610  
other specified premises for the entire period of electronically 78611  
monitored house arrest except when the court permits the child to 78612  
leave those premises to go to school or to other specified 78613  
premises; to be monitored by a central system that can determine 78614  
the child's location at designated times; to report periodically 78615  
to a person designated by the court; and to enter into a written 78616  
contract with the court agreeing to comply with all requirements 78617  
imposed by the court, agreeing to pay any fee imposed by the court 78618  
for the costs of the electronically monitored house arrest, and 78619  
agreeing to waive the right to receive credit for any time served 78620  
on electronically monitored house arrest toward the period of any 78621  
other dispositional order imposed upon the child if the child 78622  
violates any of the requirements of the dispositional order of 78623  
electronically monitored house arrest. The court also may impose 78624  
other reasonable requirements upon the child. 78625

Unless ordered by the court, a child shall not receive credit 78626  
for any time served on electronically monitored house arrest 78627  
toward any other dispositional order imposed upon the child for 78628  
the act for which was imposed the dispositional order of 78629  
electronically monitored house arrest. 78630

(1) A suspension of the driver's license, probationary 78631  
driver's license, or temporary instruction permit issued to the 78632  
child or a suspension of the registration of all motor vehicles 78633  
registered in the name of the child. A child whose license or 78634  
permit is so suspended is ineligible for issuance of a license or 78635  
permit during the period of suspension. At the end of the period 78636  
of suspension, the child shall not be reissued a license or permit 78637  
until the child has paid any applicable reinstatement fee and 78638  
complied with all requirements governing license reinstatement. 78639

(5) Commit the child to the custody of the court; 78640

(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, 78672  
except that the child shall not be placed in any of the following: 78673

(a) A state correctional institution, a county, multicounty, 78674  
or municipal jail or workhouse, or another place in which an adult 78675  
convicted of a crime, under arrest, or charged with a crime is 78676  
held; 78677

(b) A community corrections facility, if the child would be 78678  
covered by the definition of public safety beds for purposes of 78679  
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the 78680  
court exercised its authority to commit the child to the legal 78681  
custody of the department of youth services for 78682  
institutionalization or institutionalization in a secure facility 78683  
pursuant to this chapter. 78684

(B) If a child is adjudicated a delinquent child, in addition 78685  
to any order of disposition made under division (A) of this 78686  
section, the court, in the following situations, shall suspend the 78687  
child's temporary instruction permit, restricted license, 78688  
probationary driver's license, or nonresident operating privilege, 78689  
or suspend the child's ability to obtain such a permit: 78690

(1) The child is adjudicated a delinquent child for violating 78691  
section 2923.122 of the Revised Code, with the suspension and 78692  
denial being in accordance with division (E)(1)(a), (c), (d), or 78693  
(e) of section 2923.122 of the Revised Code. 78694

(2) The child is adjudicated a delinquent child for 78695  
committing an act that if committed by an adult would be a drug 78696  
abuse offense or for violating division (B) of section 2917.11 of 78697  
the Revised Code, with the suspension continuing until the child 78698  
attends and satisfactorily completes a drug abuse or alcohol abuse 78699  
education, intervention, or treatment program specified by the 78700  
court. During the time the child is attending the program, the 78701  
court shall retain any temporary instruction permit, probationary 78702

driver's license, or driver's license issued to the child, and the 78703  
court shall return the permit or license when the child 78704  
satisfactorily completes the program. 78705

(C) The court may establish a victim-offender mediation 78706  
program in which victims and their offenders meet to discuss the 78707  
offense and suggest possible restitution. If the court obtains the 78708  
assent of the victim of the delinquent act committed by the child, 78709  
the court may require the child to participate in the program. 78710

(D)(1) If a child is adjudicated a delinquent child for 78711  
committing an act that would be a felony if committed by an adult 78712  
and if the child caused, attempted to cause, threatened to cause, 78713  
or created a risk of physical harm to the victim of the act, the 78714  
court, prior to issuing an order of disposition under this 78715  
section, shall order the preparation of a victim impact statement 78716  
by the probation department of the county in which the victim of 78717  
the act resides, by the court's own probation department, or by a 78718  
victim assistance program that is operated by the state, a county, 78719  
a municipal corporation, or another governmental entity. The court 78720  
shall consider the victim impact statement in determining the 78721  
order of disposition to issue for the child. 78722

(2) Each victim impact statement shall identify the victim of 78723  
the act for which the child was adjudicated a delinquent child, 78724  
itemize any economic loss suffered by the victim as a result of 78725  
the act, identify any physical injury suffered by the victim as a 78726  
result of the act and the seriousness and permanence of the 78727  
injury, identify any change in the victim's personal welfare or 78728  
familial relationships as a result of the act and any 78729  
psychological impact experienced by the victim or the victim's 78730  
family as a result of the act, and contain any other information 78731  
related to the impact of the act upon the victim that the court 78732  
requires. 78733

(3) A victim impact statement shall be kept confidential and 78734

is not a public record. However, the court may furnish copies of 78735  
the statement to the department of youth services if the 78736  
delinquent child is committed to the department or to both the 78737  
adjudicated delinquent child or the adjudicated delinquent child's 78738  
counsel and the prosecuting attorney. The copy of a victim impact 78739  
statement furnished by the court to the department pursuant to 78740  
this section shall be kept confidential and is not a public 78741  
record. If an officer is preparing pursuant to section 2947.06 or 78742  
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 78743  
investigation report pertaining to a person, the court shall make 78744  
available to the officer, for use in preparing the report, a copy 78745  
of any victim impact statement regarding that person. The copies 78746  
of a victim impact statement that are made available to the 78747  
adjudicated delinquent child or the adjudicated delinquent child's 78748  
counsel and the prosecuting attorney pursuant to this division 78749  
shall be returned to the court by the person to whom they were 78750  
made available immediately following the imposition of an order of 78751  
disposition for the child under this chapter. 78752

The copy of a victim impact statement that is made available 78753  
pursuant to this division to an officer preparing a criminal 78754  
presentence investigation report shall be returned to the court by 78755  
the officer immediately following its use in preparing the report. 78756

(4) The department of youth services shall work with local 78757  
probation departments and victim assistance programs to develop a 78758  
standard victim impact statement. 78759

(E) If a child is adjudicated a delinquent child for being a 78760  
chronic truant or an habitual truant who previously has been 78761  
adjudicated an unruly child for being an habitual truant and the 78762  
court determines that the parent, guardian, or other person having 78763  
care of the child has failed to cause the child's attendance at 78764  
school in violation of section 3321.38 of the Revised Code, in 78765  
addition to any order of disposition it makes under this section, 78766

the court shall warn the parent, guardian, or other person having 78767  
care of the child that any subsequent adjudication of the child as 78768  
an unruly or delinquent child for being an habitual or chronic 78769  
truant may result in a criminal charge against the parent, 78770  
guardian, or other person having care of the child for a violation 78771  
of division (C) of section 2919.21 or section 2919.24 of the 78772  
Revised Code. 78773

(F)(1) During the period of a delinquent child's community 78774  
control granted under this section, authorized probation officers 78775  
who are engaged within the scope of their supervisory duties or 78776  
responsibilities may search, with or without a warrant, the person 78777  
of the delinquent child, the place of residence of the delinquent 78778  
child, and a motor vehicle, another item of tangible or intangible 78779  
personal property, or other real property in which the delinquent 78780  
child has a right, title, or interest or for which the delinquent 78781  
child has the express or implied permission of a person with a 78782  
right, title, or interest to use, occupy, or possess if the 78783  
probation officers have reasonable grounds to believe that the 78784  
delinquent child is not abiding by the law or otherwise is not 78785  
complying with the conditions of the delinquent child's community 78786  
control. The court that places a delinquent child on community 78787  
control under this section shall provide the delinquent child with 78788  
a written notice that informs the delinquent child that authorized 78789  
probation officers who are engaged within the scope of their 78790  
supervisory duties or responsibilities may conduct those types of 78791  
searches during the period of community control if they have 78792  
reasonable grounds to believe that the delinquent child is not 78793  
abiding by the law or otherwise is not complying with the 78794  
conditions of the delinquent child's community control. The court 78795  
also shall provide the written notice described in division (E)(2) 78796  
of this section to each parent, guardian, or custodian of the 78797  
delinquent child who is described in that division. 78798

(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 78830  
facility at the time of the prisoner's initial entry into the 78831  
facility under the confinement in question, to pay a reasonable 78832  
fee for any medical or dental treatment or service requested by 78833  
and provided to that prisoner, and to pay the fee for a random 78834  
drug test assessed under division (E) of section 341.26, and 78835  
division (E) of section 753.33 of the Revised Code. The fee for 78836  
the medical treatment or service shall not exceed the actual cost 78837  
of the treatment or service provided. No prisoner confined in the 78838  
local detention facility shall be denied any necessary medical 78839  
care because of inability to pay the fees. 78840

(B) Upon assessment of a one-time reception fee as described 78841  
in division (A) of this section, the provision of the requested 78842  
medical treatment or service, or the assessment of a fee for a 78843  
random drug test, payment of the required fee may be automatically 78844  
deducted from the prisoner's inmate account in the business office 78845  
of the local detention facility in which the prisoner is confined. 78846  
If there is no money in the account, a deduction may be made at a 78847  
later date during the prisoner's confinement if the money becomes 78848  
available in the account. If, after release, the prisoner has an 78849  
unpaid balance of those fees, the sheriff, legislative authority 78850  
of the municipal corporation, corrections commission, judicial 78851  
corrections board, or other entity that operates the local 78852  
detention facility described in division (A) of section 2929.37 of 78853  
the Revised Code may bill the prisoner for the payment of the 78854  
unpaid fees. Fees received for medical or dental treatment or 78855  
services shall be paid to the commissary fund, if one exists for 78856  
the facility, or if no commissary fund exists, to the general fund 78857  
of the treasury of the political subdivision that incurred the 78858  
expenses, in the same proportion as those expenses were borne by 78859  
the political subdivision. Fees received for medical treatment or 78860  
services that are placed in the commissary fund under this 78861  
division shall be used for the same purposes as profits from the 78862

commissary fund, except that they shall not be used to pay any 78863  
salary or benefits of any person who works in or is employed for 78864  
the sole purpose of providing service to the commissary. 78865

(C) Any fee paid by a person under this section shall be 78866  
deducted from any medical or dental costs that the person is 78867  
ordered to reimburse under a financial sanction imposed pursuant 78868  
to section 2929.28 of the Revised Code or to repay under a policy 78869  
adopted under section 2929.37 of the Revised Code. 78870

(D) As used in this section, "inmate account" has the same 78871  
meaning as in section 2969.21 of the Revised Code. 78872

**Sec. 4506.14.** (A) Commercial driver's licenses shall expire 78873  
as follows: 78874

(1) Except as provided in division (A)(3) of this section, 78875  
each such license issued to replace an operator's or chauffeur's 78876  
license shall expire on the original expiration date of the 78877  
operator's or chauffeur's license and, upon renewal, shall expire 78878  
on the licensee's birthday in the fourth year after the date of 78879  
issuance. 78880

(2) Except as provided in division (A)(3) of this section, 78881  
each such license issued as an original license to a person whose 78882  
residence is in this state shall expire on the licensee's birthday 78883  
in the fourth year after the date of issuance, and each such 78884  
license issued to a person whose temporary residence is in this 78885  
state shall expire in accordance with rules adopted by the 78886  
registrar of motor vehicles. A license issued to a person with a 78887  
temporary residence in this state is nonrenewable, but may be 78888  
replaced with a new license within ninety days prior to its 78889  
expiration upon the applicant's compliance with all applicable 78890  
requirements. 78891

(3) Each such license issued to replace the operator's or 78892

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.	78925
<b>Sec. 4506.15.</b> (A) No person shall do any of the following:	78926
(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;	78927 78928 78929
(2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more;	78930 78931
(3) Drive a commercial motor vehicle while under the influence of a controlled substance;	78932 78933
(4) Knowingly leave the scene of an accident involving a commercial motor vehicle driven by the person;	78934 78935
(5) Use a commercial motor vehicle in the commission of a felony;	78936 78937
(6) Refuse to submit to a test under section 4506.17 of the Revised Code;	78938 78939
(7) Violate an out-of-service order issued under this chapter;	78940 78941
(8) Violate any prohibition described in divisions (A)(2) to (7) of this section while transporting hazardous materials;	78942 78943
<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>	78944 78945 78946 78947
<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>	78948 78949 78950 78951
(B) Whoever violates this section is guilty of a misdemeanor of the first degree.	78952 78953

**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 78984  
state or a foreign jurisdiction ~~in connection with the~~ 78985  
~~manufacture, distribution, or dispensing of a controlled substance~~ 78986  
~~or the possession with intent to manufacture, distribute, or~~ 78987  
~~dispense a controlled substance,~~ the person shall be disqualified 78988  
for life, ~~in addition to any other penalty imposed by the Revised~~ 78989  
Code; 78990

(4) Upon a first conviction for a violation of division 78991  
(A)(10) of section 4506.15 of the Revised Code or a similar law of 78992  
another state or a foreign jurisdiction, occurring in a three-year 78993  
period, the person shall be disqualified for not less than sixty 78994  
days, upon a second conviction occurring in the three-year period, 78995  
the person shall be disqualified for not less than one hundred 78996  
twenty days, and upon a subsequent conviction occurring within a 78997  
three-year period, the person shall be disqualified for not less 78998  
than one year; 78999

(5) Upon conviction of two serious traffic violations 79000  
involving the operation of a commercial motor vehicle by the 79001  
person and arising from separate incidents occurring in a 79002  
three-year period, the person shall be disqualified for sixty 79003  
days, ~~in addition to any other penalty imposed by the Revised~~ 79004  
Code; 79005

(6) Upon conviction of three serious traffic violations 79006  
involving the operation of a commercial motor vehicle by the 79007  
person and arising from separate incidents occurring in a 79008  
three-year period, the person shall be disqualified for one 79009  
hundred twenty days, ~~in addition to any other penalty imposed by~~ 79010  
~~the Revised Code.~~ 79011

(C) For the purposes of this section, conviction of a 79012  
violation for which disqualification is required may be evidenced 79013  
by any of the following: 79014

(1) A judgment entry of a court of competent jurisdiction in this or any other state; 79015  
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(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers; 79017  
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(3) A computer record obtained from or through the commercial driver's license information system; 79019  
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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. 79021  
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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. 79024  
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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. 79027  
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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. 79030  
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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. 79074

(2) Whoever violates division (C) of this section may be 79075  
assessed a fine not to exceed ten thousand dollars. 79076

**Sec. 4511.33.** (A) Whenever any roadway has been divided into 79077  
two or more clearly marked lanes for traffic, or wherever within 79078  
municipal corporations traffic is lawfully moving in two or more 79079  
substantially continuous lines in the same direction, the 79080  
following rules apply: 79081

(1) A vehicle or trackless trolley shall be driven, as nearly 79082  
as is practicable, entirely within a single lane or line of 79083  
traffic and shall not be moved from such lane or line until the 79084  
driver has first ascertained that such movement can be made with 79085  
safety. 79086

(2) Upon a roadway which is divided into three lanes and 79087  
provides for two-way movement of traffic, a vehicle or trackless 79088  
trolley shall not be driven in the center lane except when 79089  
overtaking and passing another vehicle or trackless trolley where 79090  
the roadway is clearly visible and such center lane is clear of 79091  
traffic within a safe distance, or when preparing for a left turn, 79092  
or where such center lane is at the time allocated exclusively to 79093  
traffic moving in the direction the vehicle or trackless trolley 79094  
is proceeding and is posted with signs to give notice of such 79095  
allocation. 79096

(3) Official signs may be erected directing specified traffic 79097  
to use a designated lane or designating those lanes to be used by 79098  
traffic moving in a particular direction regardless of the center 79099  
of the roadway, or restricting the use of a particular lane to 79100  
only buses during certain hours or during all hours, and drivers 79101  
of vehicles and trackless trolleys shall obey the directions of 79102  
such signs. 79103

(4) Official traffic control devices may be installed 79104  
prohibiting the changing of lanes on sections of roadway and 79105  
drivers of vehicles shall obey the directions of every such 79106  
device. 79107

(B) Except as otherwise provided in this division, whoever 79108  
violates this section is guilty of a minor misdemeanor. If, within 79109  
one year of the offense, the offender previously has been 79110  
convicted of or pleaded guilty to one predicate motor vehicle or 79111  
traffic offense, whoever violates this section is guilty of a 79112  
misdemeanor of the fourth degree. If, within one year of the 79113  
offense, the offender previously has been convicted of two or more 79114  
predicate motor vehicle or traffic offenses, whoever violates this 79115  
section is guilty of a misdemeanor of the third degree. 79116

**Sec. 4511.62.** (A)(1) Whenever any person driving a vehicle or 79117  
trackless trolley approaches a railroad grade crossing, the person 79118  
shall stop within fifty feet, but not less than fifteen feet from 79119  
the nearest rail of the railroad if any of the following 79120  
circumstances exist at the crossing: 79121

(a) A clearly visible electric or mechanical signal device 79122  
gives warning of the immediate approach of a train. 79123

(b) A crossing gate is lowered. 79124

(c) A flagperson gives or continues to give a signal of the 79125  
approach or passage of a train. 79126

(d) There is insufficient space on the other side of the 79127  
railroad grade crossing to accommodate the vehicle or trackless 79128  
trolley the person is operating without obstructing the passage of 79129  
other vehicles, trackless trolleys, pedestrians, or railroad 79130  
trains, notwithstanding any traffic control signal indication to 79131  
proceed. 79132

(e) An approaching train is emitting an audible signal or is 79133

plainly visible and is in hazardous proximity to the crossing. 79134

(f) There is insufficient undercarriage clearance to safely negotiate the crossing. 79135  
79136

(2) A person who is driving a vehicle or trackless trolley 79137  
and who approaches a railroad grade crossing shall not proceed as 79138  
long as any of the circumstances described in divisions (A)(1)(a) 79139  
to ~~(e)~~(f) of this section exist at the crossing. 79140

(B) No person shall drive any vehicle through, around, or 79141  
under any crossing gate or barrier at a railroad crossing while 79142  
the gate or barrier is closed or is being opened or closed unless 79143  
the person is signaled by a law enforcement officer or flagperson 79144  
that it is permissible to do so. 79145

(C) Whoever violates this section is guilty of a misdemeanor 79146  
of the fourth degree. 79147

**Sec. 4511.63.** (A) The operator ~~of any motor vehicle or~~ 79148  
~~trackless trolley, carrying passengers, for hire, of any school~~ 79149  
bus, any vehicle described in division (C) of this section, or ~~of~~ 79150  
any vehicle ~~carrying explosives or flammable liquids as~~ 79151  
transporting a cargo or as such part of a cargo as material or 79152  
materials required to constitute a hazard be placarded under 49 79153  
C.F.R. Parts 100-185, before crossing at grade any track of a 79154  
railroad, shall stop the vehicle ~~or trackless trolley~~ and, while 79155  
so stopped, shall listen through an open door or open window and 79156  
look in both directions along the track for any approaching train, 79157  
and for signals indicating the approach of a train, and shall 79158  
proceed only upon exercising due care after stopping, looking, and 79159  
listening as required by this section. Upon proceeding, the 79160  
operator of such a vehicle shall cross only in a gear that will 79161  
ensure there will be no necessity for changing gears while 79162  
traversing the crossing and shall not shift gears while crossing 79163  
the tracks. 79164

(B) This section does not apply at any ~~of the following~~: 79165

~~(1) Street~~ street railway grade crossings within a municipal 79166  
corporation, or to abandoned tracks, spur tracks, side tracks, and 79167  
industrial tracks when the public utilities commission has 79168  
authorized and approved the crossing of the tracks without making 79169  
the stop required by this section: 79170

~~(2) Through June 30, 1995, a street railway grade crossing 79171  
where out of service signs are posted in accordance with section 79172  
4955.37 of the Revised Code. 79173~~

(C) This section applies to any vehicle used for the 79174  
transportation of pupils to and from a school or school-related 79175  
function if the vehicle is owned or operated by, or operated under 79176  
contract with, a public or nonpublic school. 79177

(D) For purposes of this section, "bus" means any vehicle 79178  
originally designed by its manufacturer to transport sixteen or 79179  
more passengers, including the driver, or carries sixteen or more 79180  
passengers, including the driver. 79181

(E) Except as otherwise provided in this division, whoever 79182  
violates this section is guilty of a minor misdemeanor. If the 79183  
offender previously has been convicted of or pleaded guilty to one 79184  
or more violations of this section or section 4511.76, 4511.761, 79185  
4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a 79186  
municipal ordinance that is substantially similar to any of those 79187  
sections, whoever violates this section is guilty of a misdemeanor 79188  
of the fourth degree. 79189

**Sec. 4511.75.** (A) The driver of a vehicle, streetcar, or 79190  
trackless trolley upon meeting or overtaking from either direction 79191  
any school bus stopped for the purpose of receiving or discharging 79192  
any school child, person attending programs offered by community 79193  
boards of mental health and county boards of mental retardation 79194

and developmental disabilities, or child attending a program 79195  
offered by a head start agency, shall stop at least ten feet from 79196  
the front or rear of the school bus and shall not proceed until 79197  
such school bus resumes motion, or until signaled by the school 79198  
bus driver to proceed. 79199

It is no defense to a charge under this division that the 79200  
school bus involved failed to display or be equipped with an 79201  
automatically extended stop warning sign as required by division 79202  
(B) of this section. 79203

(B) Every school bus shall be equipped with amber and red 79204  
visual signals meeting the requirements of section 4511.771 of the 79205  
Revised Code, and an automatically extended stop warning sign of a 79206  
type approved by the state board of education, which shall be 79207  
actuated by the driver of the bus whenever but only whenever the 79208  
bus is stopped or stopping on the roadway for the purpose of 79209  
receiving or discharging school children, persons attending 79210  
programs offered by community boards of mental health and county 79211  
boards of mental retardation and developmental disabilities, or 79212  
children attending programs offered by head start agencies. A 79213  
school bus driver shall not actuate the visual signals or the stop 79214  
warning sign in designated school bus loading areas where the bus 79215  
is entirely off the roadway or at school buildings when children 79216  
or persons attending programs offered by community boards of 79217  
mental health and county boards of mental retardation and 79218  
developmental disabilities are loading or unloading at curbside or 79219  
at buildings when children attending programs offered by head 79220  
start agencies are loading or unloading at curbside. The visual 79221  
signals and stop warning sign shall be synchronized or otherwise 79222  
operated as required by rule of the board. 79223

(C) Where a highway has been divided into four or more 79224  
traffic lanes, a driver of a vehicle, streetcar, or trackless 79225  
trolley need not stop for a school bus approaching from the 79226

opposite direction which has stopped for the purpose of receiving 79227  
or discharging any school child, persons attending programs 79228  
offered by community boards of mental health and county boards of 79229  
mental retardation and developmental disabilities, or children 79230  
attending programs offered by head start agencies. The driver of 79231  
any vehicle, streetcar, or trackless trolley overtaking the school 79232  
bus shall comply with division (A) of this section. 79233

(D) School buses operating on divided highways or on highways 79234  
with four or more traffic lanes shall receive and discharge all 79235  
school children, persons attending programs offered by community 79236  
boards of mental health and county boards of mental retardation 79237  
and developmental disabilities, and children attending programs 79238  
offered by head start agencies on their residence side of the 79239  
highway. 79240

(E) No school bus driver shall start the driver's bus until 79241  
after any child, person attending programs offered by community 79242  
boards of mental health and county boards of mental retardation 79243  
and developmental disabilities, or child attending a program 79244  
offered by a head start agency who may have alighted therefrom has 79245  
reached a place of safety on the child's or person's residence 79246  
side of the road. 79247

(F)(1) Whoever violates division (A) of this section may be 79248  
fined an amount not to exceed five hundred dollars. A person who 79249  
is issued a citation for a violation of division (A) of this 79250  
section is not permitted to enter a written plea of guilty and 79251  
waive the person's right to contest the citation in a trial but 79252  
instead must appear in person in the proper court to answer the 79253  
charge. 79254

(2) In addition to and independent of any other penalty 79255  
provided by law, the court or mayor may impose upon an offender 79256  
who violates this section a class seven suspension of the 79257  
offender's driver's license, commercial driver's license, 79258

temporary instruction permit, probationary license, or nonresident 79259  
operating privilege from the range specified in division (A)(7) of 79260  
section 4510.02 of the Revised Code. When a license is suspended 79261  
under this section, the court or mayor shall cause the offender to 79262  
deliver the license to the court, and the court or clerk of the 79263  
court immediately shall forward the license to the registrar of 79264  
motor vehicles, together with notice of the court's action. 79265

(G) As used in this section: 79266

(1) "Head start agency" has the same meaning as in ~~division~~ 79267  
~~(A)(1)~~ of section 3301.31 of the Revised Code. 79268

(2) "School bus," as used in relation to children who attend 79269  
a program offered by a head start agency, means a bus that is 79270  
owned and operated by a head start agency, is equipped with an 79271  
automatically extended stop warning sign of a type approved by the 79272  
state board of education, is painted the color and displays the 79273  
markings described in section 4511.77 of the Revised Code, and is 79274  
equipped with amber and red visual signals meeting the 79275  
requirements of section 4511.771 of the Revised Code, irrespective 79276  
of whether or not the bus has fifteen or more children aboard at 79277  
any time. "School bus" does not include a van owned and operated 79278  
by a head start agency, irrespective of its color, lights, or 79279  
markings. 79280

**Section 3.08.** That the existing versions of sections 307.93, 79281  
2152.19, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 79282  
4511.62, 4511.63, and 4511.75 of the Revised Code that are 79283  
scheduled to take effect January 1, 2004, are hereby repealed. 79284

**Section 3.09.** Sections 3.07 and 3.08 of this act take effect 79285  
January 1, 2004, except section 4511.75 of the Revised Code, as 79286  
amended in those sections of this act, takes effect July 1, 2004. 79287  
The amendment of section 4511.75 of the Revised Code by those 79288

sections of this act is not intended to supersede the amendment of 79289  
the version of section 4511.75 of the Revised Code that is 79290  
scheduled to take effect January 1, 2004. 79291

**Section 3.09A.** That the version of section 5739.033 of the 79292  
Revised Code as it results from Am. Sub. S.B. 143 of the 124th 79293  
General Assembly, as amended by H.B. 675 of the 124th General 79294  
Assembly, be amended to read as follows: 79295

**Sec. 5739.033.** The amount of tax due pursuant to sections 79296  
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 79297  
the sum of the taxes imposed pursuant to those sections at the 79298  
~~situs~~ sourcing location of the sale as determined under this 79299  
section or, if applicable, under division (C) of section 5739.031 79300  
or section 5739.034 of the Revised Code. This section applies only 79301  
to a vendor's or seller's obligation to collect and remit sales 79302  
taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of 79303  
the Revised Code or use taxes under section 5741.02, 5741.021, 79304  
5741.022, or 5741.023 of the Revised Code. This section does not 79305  
affect the obligation of a consumer to remit use taxes on the 79306  
storage, use, or other consumption of tangible personal property 79307  
or on the benefit realized of any service provided, to the 79308  
jurisdiction of that storage, use, or consumption, or benefit 79309  
realized. 79310

(A) Except for sales, other than leases, of titled motor 79311  
vehicles, titled watercraft, or titled outboard motors as provided 79312  
in section 5741.05 of the Revised Code, or as otherwise provided 79313  
in this section and section 5739.034 of the Revised Code, ~~the~~ 79314  
~~situs~~ of all sales is the vendor's place of business. shall be 79315  
sourced as follows: 79316

(1) If the consumer or ~~the consumer's~~ a donee designated by 79317  
the consumer receives tangible personal property or a service at a 79318

~~vendor's~~ place of business ~~of the vendor~~, ~~the situs of the sale is~~ 79319  
shall be sourced to that place of business. 79320

(2) When the tangible personal property or service is not 79321  
received at a vendor's place of business, ~~the situs of the sale is~~ 79322  
shall be sourced to the location known to the vendor where the 79323  
consumer or a the donee designated by the consumer receives the 79324  
tangible personal property or service, including the location 79325  
indicated by instructions for delivery to the consumer or the 79326  
consumer's donee, ~~known to the vendor~~. 79327

(3) If divisions (A)(1) and (2) of this section do not apply, 79328  
~~the situs of the sale is~~ shall be sourced to the location 79329  
indicated by an address for the consumer that is available from 79330  
the vendor's business records ~~of the vendor~~ that are maintained in 79331  
the ordinary course of the vendor's business, when use of that 79332  
address does not constitute bad faith. 79333

(4) If divisions (A)(1), (2), and (3) of this section do not 79334  
apply, ~~the situs of the sale is~~ shall be sourced to the location 79335  
indicated by an address for the consumer obtained during the 79336  
consummation of the sale, including the address associated with 79337  
the consumer's payment instrument, if no other address is 79338  
available, when use of that address does not constitute bad faith. 79339

(5) If divisions (A)(1), (2), (3), and (4) of this section do 79340  
not apply, including in the circumstance where the vendor is 79341  
without sufficient information to apply any of those divisions, 79342  
~~the situs of the sale is~~ shall be sourced to the address from 79343  
which tangible personal property was shipped, or from which the 79344  
service was provided, disregarding any location that merely 79345  
provided the electronic transfer of the property sold or service 79346  
provided. 79347

(6) As used in division (A) of this section, "receive" means 79348  
taking possession of tangible personal property or making first 79349

use of a service. "Receive" does not include possession by a 79350  
shipping company on behalf of a consumer. 79351

(B)(1) Notwithstanding divisions (A)(1) to (5) of this 79352  
section, a ~~manufacturer or other~~ consumer that is not a holder of 79353  
a direct payment permit granted under section 5739.031 of the 79354  
Revised Code, that purchases ~~tangible personal property~~ computer 79355  
software delivered electronically or a service for use in 79356  
business, and that knows at the time of purchase that ~~the property~~ 79357  
such software or service will be concurrently available for use in 79358  
more than one taxing jurisdiction shall deliver to the vendor in 79359  
conjunction with its purchase a multiple points of use exemption 79360  
form prescribed by the tax commissioner disclosing this fact. On 79361  
receipt of the multiple points of use exemption form, the vendor 79362  
is relieved of its obligation to collect, pay, or remit the tax 79363  
due, and the consumer must ~~collect, pay, or remit~~ the tax directly 79364  
to the state. 79365

(2) A consumer that delivers such form to a vendor may use 79366  
any reasonable, consistent, and uniform method of apportioning the 79367  
tax due on the ~~tangible personal property~~ computer software 79368  
delivered electronically or service for use in business that is 79369  
supported by the consumer's business records as they existed at 79370  
the time of the sale. 79371

(3) The multiple points of use exemption form shall remain in 79372  
effect for all future sales by the vendor to the consumer until it 79373  
is revoked in writing by the consumer, except as to the consumer's 79374  
specific apportionment of a subsequent sale under division (B)(2) 79375  
of this section and the facts existing at the time of the sale. 79376

(C) A person who holds a direct payment permit issued under 79377  
section 5739.031 of the Revised Code is not required to deliver a 79378  
multiple points of use exemption form to a vendor. But such permit 79379  
holder shall comply with division (B)(2) of this section in 79380  
apportioning the tax due on ~~tangible personal property~~ computer 79381

software delivered electronically or a service used in business 79382  
that will be concurrently available for use in more than one 79383  
taxing jurisdiction. 79384

~~(D) Except as provided in division (F) of this section:~~ 79385

~~(1) If the vendor provides a service specified in division 79386  
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 79387  
of the sale is the location of the telephone number or account as 79388  
reflected in the records of the vendor. 79389~~

~~(2) In the case of a telecommunications service, if the 79390  
telephone number or account is located outside this state, the 79391  
situs of the sale is the location in this state from which the 79392  
service originated (1) Notwithstanding divisions (A)(1) to (5) of 79393  
this section, the purchaser of direct mail that is not a holder of 79394  
a direct payment permit shall provide to the vendor in conjunction 79395  
with the purchase either a direct mail form prescribed by the tax 79396  
commissioner, or information to show the jurisdictions to which 79397  
the direct mail is delivered to recipients. 79398~~

(2) Upon receipt of a direct mail form, the vendor is 79399  
relieved of all obligations to collect, pay, or remit the 79400  
applicable tax and the purchaser is obligated to pay that tax on a 79401  
direct pay basis. A direct mail form shall remain in effect for 79402  
all future sales of direct mail by the vendor to the purchaser 79403  
until it is revoked in writing. 79404

(3) Upon receipt of information from the purchaser showing 79405  
the jurisdictions to which the direct mail is delivered to 79406  
recipients, the vendor shall collect the tax according to the 79407  
delivery information provided by the purchaser. In the absence of 79408  
bad faith, the vendor is relieved of any further obligation to 79409  
collect tax on any transaction where the vendor has collected tax 79410  
pursuant to the delivery information provided by the purchaser. 79411

(4) If the purchaser of direct mail does not have a direct 79412

payment permit and does not provide the vendor with either a 79413  
direct mail form or delivery information as required by division 79414  
(D)(1) of this section, the vendor shall collect the tax according 79415  
to division (A)(5) of this section. Nothing in division (D)(4) of 79416  
this section shall limit a purchaser's obligation to pay sales or 79417  
use tax to any state to which the direct mail is delivered. 79418

(5) If a purchaser of direct mail provides the vendor with 79419  
documentation of direct payment authority, the purchaser shall not 79420  
be required to provide a direct mail form or delivery information 79421  
to the vendor. 79422

(E) If the vendor provides lodging to transient guests as 79423  
specified in division (B)(2) of section 5739.01 of the Revised 79424  
Code, ~~the situs of the sale is~~ shall be sourced to the location 79425  
where the lodging is located. 79426

~~(F) Except as otherwise provided in this division, if the~~ 79427  
~~vendor sells a prepaid authorization number or a prepaid telephone~~ 79428  
~~calling card, the situs of the sale is the vendor's place of~~ 79429  
~~business and shall be taxed at the time of sale. If the vendor~~ 79430  
~~sells a prepaid authorization number or prepaid telephone calling~~ 79431  
~~card through a telephone call, electronic commerce, or any other~~ 79432  
~~form of remote commerce, the situs of the sale is the consumer's~~ 79433  
~~shipping address, or, if there is no item shipped, at the~~ 79434  
~~consumer's billing address~~ (1) As used in this division and 79435  
division (G) of this section, "transportation equipment" means any 79436  
of the following: 79437

(a) Locomotives and railcars that are utilized for the 79438  
carriage of persons or property in interstate commerce. 79439

(b) Trucks and truck-tractors with a gross vehicle weight 79440  
rating of greater than ten thousand pounds, trailers, 79441  
semi-trailers, or passenger buses that are registered through the 79442  
international registration plan and are operated under authority 79443

of a carrier authorized and certificated by the United States 79444  
department of transportation or another federal authority to 79445  
engage in the carriage of persons or property in interstate 79446  
commerce. 79447

(c) Aircraft that are operated by air carriers authorized and 79448  
certificated by the United States department of transportation or 79449  
another federal authority to engage in the carriage of persons or 79450  
property in interstate or foreign commerce. 79451

(d) Containers designed for use on and component parts 79452  
attached to or secured on the items set forth in division 79453  
(F)(1)(a), (b), or (c) of this section. 79454

(2) A sale, lease, or rental of transportation equipment 79455  
shall be sourced pursuant to division (A) of this section. 79456

(G)(1) A lease or rental of tangible personal property that 79457  
does not require recurring periodic payments shall be sourced 79458  
pursuant to division (A) of this section. 79459

(2) A lease or rental of tangible personal property that 79460  
requires recurring periodic payments shall be sourced as follows: 79461

(a) In the case of a motor vehicle, other than a motor 79462  
vehicle that is transportation equipment, such lease or rental 79463  
shall be sourced to the primary property location as follows: 79464

(i) For a lease or rental taxed pursuant to division (A)(2) 79465  
of section 5739.02 of the Revised Code, the primary property 79466  
location is the address of the lessee or renter used for titling 79467  
the motor vehicle pursuant to section 4505.06 of the Revised Code 79468  
at the time the lease or rental is consummated. 79469

(ii) For a lease or rental taxed pursuant to division (A)(3) 79470  
of section 5739.02 of the Revised Code, the primary property 79471  
location for each lease or rental installment is the primary 79472  
property location for the period covered by the installment. 79473

(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: 79474  
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79476

(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. 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 each lease or rental installment is the primary property location for the period covered by the installment. 79481  
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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: 79485  
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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. 79489  
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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. 79493  
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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: 79500  
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(i) For a lease or rental that is taxed pursuant to division 79503

(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. 79504  
79505  
79506

(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. 79507  
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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. 79513  
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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. 79518  
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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. 79522  
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**Section 3.10.** Section 4723.063 of the Revised Code is hereby repealed, effective December 31, 2013. 79527  
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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: 79529  
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79531

Sec. 5101.28. (A) ~~The department of job and family services~~ 79532  
~~shall enter into written agreements with law enforcement agencies~~ 79533  
~~to exchange, obtain, or share~~ (1) On request of the department of 79534  
job and family services or a county agency, a law enforcement 79535  
agency shall provide information regarding public assistance 79536  
recipients to enable the department, or ~~county agencies, and law~~ 79537  
~~enforcement agencies~~ agency to determine, for eligibility 79538  
purposes, whether a recipient or a member of a recipient's 79539  
assistance group is ~~either of the following:~~ 79540

~~(1) A a fugitive felon;~~ 79541

~~(2) Violating felon or violating~~ a condition of probation, a 79542  
community control sanction, parole, or a post-release control 79543  
sanction imposed under state or federal law. 79544

(2) A county agency may enter into a written agreement with a 79545  
local law enforcement agency establishing procedures concerning 79546  
access to information and providing for compliance with division 79547  
(F) of this section. 79548

(B) ~~The~~ To the extent permitted by federal law, the 79549  
department and county agencies shall provide information, except 79550  
information directly related to the receipt of medical assistance 79551  
or medical services, regarding recipients of public assistance 79552  
under a program administered by the state department or a county 79553  
agency pursuant to Chapter 5107., 5108., or 5115. of the Revised 79554  
Code to law enforcement agencies on request for the purposes of 79555  
investigations, prosecutions, and criminal and civil proceedings 79556  
that are within the scope of the law enforcement agencies' 79557  
official duties. 79558

(C) Information about a recipient shall be exchanged, 79559  
obtained, or shared only if the department, county agency, or law 79560  
enforcement agency requesting the information gives sufficient 79561

information to specifically identify the recipient. In addition to 79562  
the recipient's name, identifying information may include the 79563  
recipient's current or last known address, social security number, 79564  
other identifying number, age, gender, physical characteristics, 79565  
any information specified in an agreement entered into under 79566  
division (A) of this section, or any information considered 79567  
appropriate by the department or agency. 79568

(D)(1) The department and its officers and employees are not 79569  
liable in damages in a civil action for any injury, death, or loss 79570  
to person or property that allegedly arises from the release of 79571  
information in accordance with divisions (A), (B), and (C) of this 79572  
section. This section does not affect any immunity or defense that 79573  
the department and its officers and employees may be entitled to 79574  
under another section of the Revised Code or the common law of 79575  
this state, including section 9.86 of the Revised Code. 79576

(2) The county agencies and their employees are not liable in 79577  
damages in a civil action for any injury, death, or loss to person 79578  
or property that allegedly arises from the release of information 79579  
in accordance with divisions (A), (B), and (C) of this section. 79580  
"Employee" has the same meaning as in division (B) of section 79581  
2744.01 of the Revised Code. This section does not affect any 79582  
immunity or defense that the county agencies and their employees 79583  
may be entitled to under another section of the Revised Code or 79584  
the common law of this state, including section 2744.02 and 79585  
division (A)(6) of section 2744.03 of the Revised Code. 79586

(E) To the extent permitted by federal law, the department 79587  
and county agencies shall provide access to information to the 79588  
auditor of state acting pursuant to Chapter 117. or sections 79589  
5101.181 and 5101.182 of the Revised Code and to any other 79590  
government entity authorized by ~~ex~~ federal law to conduct an audit 79591  
of or similar activity involving a public assistance program. 79592

(F) The auditor of state shall prepare an annual report on 79593

the outcome of the agreements required under division (A) of this 79594  
section. The report shall include the number of fugitive felons, 79595  
probation and parole violators, and violators of community control 79596  
sanctions and post-release control sanctions apprehended during 79597  
the immediately preceding year as a result of the exchange of 79598  
information pursuant to that division. The auditor of state shall 79599  
file the report with the governor, the president and minority 79600  
leader of the senate, and the speaker and minority leader of the 79601  
house of representatives. The state department, county agencies, 79602  
and law enforcement agencies shall cooperate with the auditor of 79603  
state's office in gathering the information required under this 79604  
division. 79605

(G) To the extent permitted by federal law, the department of 79606  
job and family services, county departments of job and family 79607  
services, and employees of the departments may report to a public 79608  
children services agency or other appropriate agency information 79609  
on known or suspected physical or mental injury, sexual abuse or 79610  
exploitation, or negligent treatment or maltreatment, of a child 79611  
receiving public assistance, if circumstances indicate that the 79612  
child's health or welfare is threatened. 79613

(H) As used in this section: 79614

(1) "Community control sanction" has the same meaning as in 79615  
section 2929.01 of the Revised Code. 79616

(2) "Post-release control sanction" has the same meaning as 79617  
in section 2967.01 of the Revised Code. 79618

**Section 3.12.** That the existing version of section 5101.28 of 79619  
the Revised Code that is scheduled to take effect January 1, 2004, 79620  
is hereby repealed. 79621

**Section 3.13.** Sections 3.11 and 3.12 of this act shall take 79622  
effect January 1, 2004. 79623

**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 79654  
a temporary basis, for a probationary term, or on other than a 79655  
permanent basis if the employee previously has been convicted of 79656  
or has pleaded guilty to a felony. 79657

(2)(a) The tax commissioner shall revoke the delegation of 79658  
investigation powers to an employee to whom the delegation was 79659  
made pursuant to division (B) of this section if that employee 79660  
does either of the following: 79661

(i) Pleads guilty to a felony; 79662

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 79663  
plea agreement as provided in division (D) of section 2929.43 of 79664  
the Revised Code in which the employee agrees to surrender the 79665  
certificate awarded to that employee under section 109.77 of the 79666  
Revised Code. 79667

(b) The tax commissioner shall suspend the delegation of 79668  
investigation powers to an employee to whom the delegation was 79669  
made pursuant to division (B) of this section if that employee is 79670  
convicted, after trial, of a felony. If the employee files an 79671  
appeal from that conviction and the conviction is upheld by the 79672  
highest court to which the appeal is taken or if the employee does 79673  
not file a timely appeal, the commissioner shall revoke the 79674  
delegation of investigation powers to that employee. If the 79675  
employee files an appeal that results in that employee's acquittal 79676  
of the felony or conviction of a misdemeanor, or in the dismissal 79677  
of the felony charge against that employee, the commissioner shall 79678  
reinstate the delegation of investigation powers to that employee. 79679  
The suspension, revocation, and reinstatement of the delegation of 79680  
investigation powers to an employee under division (C)(2) of this 79681  
section shall be made by journal entry pursuant to division (B) of 79682  
this section. An employee to whom the delegation of investigation 79683  
powers is reinstated under division (C)(2)(b) of this section 79684  
shall not receive any back pay for the exercise of those 79685

investigation powers unless that employee's conviction of the 79686  
felony was reversed on appeal, or the felony charge was dismissed, 79687  
because the court found insufficient evidence to convict the 79688  
employee of the felony. 79689

(3) Division (C) of this section does not apply regarding an 79690  
offense that was committed prior to January 1, 1997. 79691

(4) The suspension or revocation of the delegation of 79692  
investigation powers to an employee under division (C)(2) of this 79693  
section shall be in accordance with Chapter 119. of the Revised 79694  
Code. 79695

**Section 3.15.** That the existing version of section 5743.45 of 79696  
the Revised Code that is scheduled to take effect January 1, 2004, 79697  
is hereby repealed. 79698

**Section 3.16.** Sections 3.14 and 3.15 of this act take effect 79699  
January 1, 2004. 79700

**Section 3.17.** Section 5111.161 of the Revised Code is hereby 79701  
repealed, effective October 1, 2005. 79702

**Section 4.** Except as otherwise provided, all appropriation 79703  
items (AI) in this act are appropriated out of any moneys in the 79704  
state treasury to the credit of the designated fund that are not 79705  
otherwise appropriated. For all appropriations made in this act, 79706  
the amounts in the first column are for fiscal year 2004 and the 79707  
amounts in the second column are for fiscal year 2005. 79708

FND AI	AI TITLE	APPROPRIATIONS	
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**Section 5.** ACC ACCOUNTANCY BOARD OF OHIO 79710

General Services Fund Group 79711

4J8 889-601 CPA Education	\$	209,510	\$	209,510	79712
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Assistance

4K9 889-609 Operating Expenses	\$	1,010,583	\$	1,055,578	79713
TOTAL GSF General Services Fund					79714
Group	\$	1,220,093	\$	1,265,088	79715
TOTAL ALL BUDGET FUND GROUPS	\$	1,220,093	\$	1,265,088	79716

**Section 6. PAY ACCRUED LEAVE LIABILITY** 79718

Accrued Leave Liability Fund Group 79719

806 995-666 Accrued Leave Fund	\$	70,783,792	\$	78,296,200	79720
807 995-667 Disability Fund	\$	47,269,465	\$	50,098,308	79721
TOTAL ALF Accrued Leave Liability					79722
Fund Group	\$	118,053,257	\$	128,394,508	79723

Agency Fund Group 79724

808 995-668 State Employee Health	\$	312,724,593	\$	371,450,611	79725
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Benefit Fund

809 995-669 Dependent Care	\$	3,691,169	\$	4,060,286	79726
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Spending Account

810 995-670 Life Insurance	\$	1,925,110	\$	1,992,489	79727
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Investment Fund

811 995-671 Parental Leave Benefit	\$	4,350,302	\$	4,785,332	79728
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Fund

TOTAL AGY Agency Fund Group	\$	322,691,174	\$	382,288,718	79729
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TOTAL ALL BUDGET FUND GROUPS	\$	440,744,431	\$	510,683,226	79730
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ACCRUED LEAVE LIABILITY FUND 79731

The foregoing appropriation item 995-666, Accrued Leave Fund, 79732  
shall be used to make payments from the Accrued Leave Liability 79733  
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 79734  
If it is determined by the Director of Budget and Management that 79735  
additional amounts are necessary, the amounts are appropriated. 79736

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 79737

The foregoing appropriation item 995-667, Disability Fund, 79738

shall be used to make payments from the State Employee Disability 79739  
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 79740  
Revised Code. If it is determined by the Director of Budget and 79741  
Management that additional amounts are necessary, the amounts are 79742  
appropriated. 79743

STATE EMPLOYEE HEALTH BENEFIT FUND 79744

The foregoing appropriation item 995-668, State Employee 79745  
Health Benefit Fund, shall be used to make payments from the State 79746  
Employee Health Benefit Fund (Fund 808), pursuant to section 79747  
124.87 of the Revised Code. If it is determined by the Director of 79748  
Budget and Management that additional amounts are necessary, the 79749  
amounts are appropriated. 79750

DEPENDENT CARE SPENDING ACCOUNT 79751

The foregoing appropriation item 995-669, Dependent Care 79752  
Spending Account, shall be used to make payments from the 79753  
Dependent Care Spending Account (Fund 809) to employees eligible 79754  
for dependent care expenses. If it is determined by the Director 79755  
of Budget and Management that additional amounts are necessary, 79756  
the amounts are appropriated. 79757

LIFE INSURANCE INVESTMENT FUND 79758

The foregoing appropriation item 995-670, Life Insurance 79759  
Investment Fund, shall be used to make payments from the Life 79760  
Insurance Investment Fund (Fund 810) for the costs and expenses of 79761  
the state's life insurance benefit program pursuant to section 79762  
125.212 of the Revised Code. If it is determined by the Director 79763  
of Budget and Management that additional amounts are necessary, 79764  
the amounts are appropriated. 79765

PARENTAL LEAVE BENEFIT FUND 79766

The foregoing appropriation item 995-671, Parental Leave 79767  
Benefit Fund, shall be used to make payments from the Parental 79768

Leave Benefit Fund (Fund 811) to employees eligible for parental 79769  
leave benefits pursuant to section 124.137 of the Revised Code. If 79770  
it is determined by the Director of Budget and Management that 79771  
additional amounts are necessary, the amounts are appropriated. 79772

**Section 7. ADJ ADJUTANT GENERAL** 79773

General Revenue Fund 79774

GRF 745-401	Ohio Military Reserve	\$	14,889	\$	15,188	79775
GRF 745-404	Air National Guard	\$	1,915,177	\$	1,939,762	79776
GRF 745-409	Central Administration	\$	3,976,734	\$	3,899,590	79777
GRF 745-499	Army National Guard	\$	3,987,516	\$	4,086,222	79778
GRF 745-502	Ohio National Guard	\$	100,953	\$	102,973	79779

Unit Fund

TOTAL GRF General Revenue Fund	\$	9,995,269	\$	10,043,735	79780
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General Services Fund Group 79781

534 745-612	Armory Improvements	\$	534,304	\$	534,304	79782
536 745-620	Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	79783

Operations

537 745-604	ONG Maintenance	\$	219,826	\$	219,826	79784
TOTAL GSF General Services Fund	\$	1,849,100	\$	1,849,100	79785	

Group

Federal Special Revenue Fund Group 79786

3E8 745-628	Air National Guard	\$	11,901,459	\$	12,174,760	79787
	Operations and					
	Maintenance Agreement					

3R8 745-603	Counter Drug	\$	25,000	\$	25,000	79788
	Operations					

3S0 745-602	Higher Ground Training	\$	10,937	\$	10,937	79789
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341 745-615	Air National Guard	\$	2,181,960	\$	2,312,877	79790
	Base Security					

342 745-616	Army National Guard	\$	8,109,221	\$	8,686,892	79791
	Service Agreement					

TOTAL FED Federal Special Revenue	\$	22,228,577	\$	23,210,466	79792
Fund Group					
State Special Revenue Fund Group					79793
528 745-605 Marksmanship	\$	66,078	\$	66,078	79794
Activities					
TOTAL SSR State Special Revenue	\$	66,078	\$	66,078	79795
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379	79796

**Section 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES** 79798

General Revenue Fund					79799
GRF 100-402 Unemployment	\$	155,831	\$	155,189	79800
Compensation					
GRF 100-405 Agency Audit Expenses	\$	350,000	\$	350,000	79801
GRF 100-406 County & University	\$	591,007	\$	568,634	79802
Human Resources					
Services					
GRF 100-409 Departmental	\$	790,278	\$	788,444	79803
Information Services					
GRF 100-410 Veterans' Records	\$	19,729	\$	47,123	79804
Conversion					
GRF 100-416 Strategic Technology	\$	1,689,155	\$	1,584,140	79805
Development Programs					
GRF 100-417 MARCS	\$	1,696,760	\$	900,000	79806
GRF 100-418 Digital Government	\$	3,446,645	\$	3,643,649	79807
GRF 100-419 Network Security	\$	3,293,501	\$	2,170,766	79808
GRF 100-421 OAKS Project	\$	450,000	\$	450,000	79809
Implementation					
GRF 100-433 State of Ohio Computer	\$	4,936,073	\$	4,991,719	79810
Center					
GRF 100-439 Equal Opportunity	\$	661,531	\$	661,531	79811
Certification Programs					

GRF 100-447	OBA - Building Rent Payments	\$ 105,675,000	\$ 117,027,700	79812
GRF 100-448	OBA - Building Operating Payments	\$ 25,445,550	\$ 26,003,250	79813
GRF 100-449	DAS - Building Operating Payments	\$ 4,264,675	\$ 4,460,417	79814
GRF 100-451	Minority Affairs	\$ 50,000	\$ 50,000	79815
GRF 100-734	Major Maintenance - State Bldgs	\$ 45,000	\$ 45,000	79816
GRF 102-321	Construction Compliance	\$ 1,250,000	\$ 1,250,000	79817
GRF 130-321	State Agency Support Services	\$ 2,400,000	\$ 2,400,000	79818
TOTAL GRF	General Revenue Fund	\$ 157,210,735	\$ 167,547,562	79819
	General Services Fund Group			79820
112 100-616	Director's Office	\$ 5,503,547	\$ 5,503,547	79821
115 100-632	Central Service Agency	\$ 431,176	\$ 448,574	79822
117 100-644	General Services Division - Operating	\$ 7,622,861	\$ 8,653,304	79823
122 100-637	Fleet Management	\$ 1,669,589	\$ 1,652,849	79824
125 100-622	Human Resources Division - Operating	\$ 21,489,800	\$ 21,764,800	79825
127 100-627	Vehicle Liability Insurance	\$ 3,363,894	\$ 3,344,644	79826
128 100-620	Collective Bargaining	\$ 3,410,952	\$ 3,410,952	79827
130 100-606	Risk Management Reserve	\$ 217,904	\$ 223,904	79828
131 100-639	State Architect's Office	\$ 6,510,117	\$ 6,473,867	79829
132 100-631	DAS Building Management	\$ 10,921,019	\$ 10,721,430	79830
188 100-649	Equal Opportunity Division - Operating	\$ 1,082,353	\$ 1,103,697	79831

201	100-653	General Services	\$	1,533,000	\$	1,553,000	79832
		Resale Merchandise					
210	100-612	State Printing	\$	6,160,200	\$	6,674,421	79833
4P3	100-603	Departmental MIS	\$	6,077,535	\$	6,233,638	79834
		Services					
427	100-602	Investment Recovery	\$	4,023,473	\$	3,953,216	79835
5C2	100-605	MARCS Administration	\$	6,632,527	\$	9,268,178	79836
5C3	100-608	Skilled Trades	\$	1,840,327	\$	1,905,655	79837
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	79838
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	79839
		Development					
5V6	100-619	Employee Educational	\$	809,071	\$	811,129	79840
		Development					
TOTAL GSF General Services Fund							79841
Group			\$	103,999,345	\$	108,400,805	79842
Intragovernmental Service Fund Group							79843
133	100-607	Information Technology	\$	100,987,526	\$	102,272,838	79844
		Fund					
4N6	100-617	Major IT Purchases	\$	15,452,006	\$	10,617,166	79845
TOTAL ISF Intragovernmental							79846
Service Fund Group			\$	116,439,532	\$	112,890,004	79847
Agency Fund Group							79848
113	100-628	Unemployment	\$	4,200,000	\$	4,200,000	79849
		Compensation Pass					
		Through					
124	100-629	Payroll Deductions	\$	1,971,000,000	\$	2,050,000,000	79850
TOTAL AGY Agency Fund Group							79851
Holding Account Redistribution Fund Group							79852
R08	100-646	General Services	\$	20,000	\$	20,000	79853
		Refunds					
TOTAL 090 Holding Account							79854
Redistribution Fund Group			\$	20,000	\$	20,000	79855

TOTAL ALL BUDGET FUND GROUPS \$ 2,352,869,612 \$ 2,443,058,371 79856

**Section 8.01.** AGENCY AUDIT EXPENSES 79858

The foregoing appropriation item 100-405, Agency Audit 79859  
Expenses, shall be used for auditing expenses designated in 79860  
division (A)(1) of section 117.13 of the Revised Code for those 79861  
state agencies audited on a biennial basis. 79862

**Section 8.02.** OHIO BUILDING AUTHORITY 79863

The foregoing appropriation item 100-447, OBA - Building Rent 79864  
Payments, shall be used to meet all payments at the times they are 79865  
required to be made during the period from July 1, 2003, to June 79866  
30, 2005, by the Department of Administrative Services to the Ohio 79867  
Building Authority pursuant to leases and agreements under Chapter 79868  
152. of the Revised Code, but limited to the aggregate amount of 79869  
\$222,702,700. These appropriations are the source of funds pledged 79870  
for bond service charges on obligations issued pursuant to Chapter 79871  
152. of the Revised Code. 79872

The foregoing appropriation item 100-448, OBA - Building 79873  
Operating Payments, shall be used to meet all payments at the 79874  
times that they are required to be made during the period from 79875  
July 1, 2003, to June 30, 2005, by the Department of 79876  
Administrative Services to the Ohio Building Authority pursuant to 79877  
leases and agreements under Chapter 152. of the Revised Code, but 79878  
limited to the aggregate amount of \$51,448,800. 79879

The payments to the Ohio Building Authority are for the 79880  
purpose of paying the expenses of agencies that occupy space in 79881  
the various state facilities. The Department of Administrative 79882  
Services may enter into leases and agreements with the Ohio 79883  
Building Authority providing for the payment of these expenses. 79884  
The Ohio Building Authority shall report to the Department of 79885  
Administrative Services and the Office of Budget and Management 79886

not later than five months after the start of a fiscal year the 79887  
actual expenses incurred by the Ohio Building Authority in 79888  
operating the facilities and any balances remaining from payments 79889  
and rentals received in the prior fiscal year. The Department of 79890  
Administrative Services shall reduce subsequent payments by the 79891  
amount of the balance reported to it by the Ohio Building 79892  
Authority. 79893

**Section 8.03. DAS - BUILDING OPERATING PAYMENTS** 79894

The foregoing appropriation item 100-449, DAS - Building 79895  
Operating Payments, shall be used to pay the rent expenses of 79896  
veterans organizations pursuant to section 123.024 of the Revised 79897  
Code in fiscal years 2004 and 2005. 79898

The foregoing appropriation item, 100-449, DAS - Building 79899  
Operating Payments, may be used to provide funding for the cost of 79900  
property appraisals or building studies that the Department of 79901  
Administrative Services may be required to obtain for property 79902  
that is being sold by the state or property under consideration to 79903  
be renovated or purchased by the state. 79904

Notwithstanding section 125.28 of the Revised Code, the 79905  
remaining portion of the appropriation may be used to pay the 79906  
operating expenses of state facilities maintained by the 79907  
Department of Administrative Services that are not billed to 79908  
building tenants. These expenses may include, but are not limited 79909  
to, the costs for vacant space and space undergoing renovation, 79910  
and the rent expenses of tenants that are relocated due to 79911  
building renovations. These payments shall be processed by the 79912  
Department of Administrative Services through intrastate transfer 79913  
vouchers and placed in the Building Management Fund (Fund 132). 79914

**Section 8.04. CENTRAL SERVICE AGENCY FUND** 79915

The Director of Budget and Management may transfer up to 79916

\$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 79917  
2005 from the Occupational Licensing and Regulatory Fund (Fund 79918  
4K9) to the Central Service Agency Fund (Fund 115). The Director 79919  
of Budget and Management may transfer up to \$40,700 in fiscal year 79920  
2004 and up to \$41,200 in fiscal year 2005 from the State Medical 79921  
Board Operating Fund (Fund 5C6) to the Central Service Agency Fund 79922  
(Fund 115). The appropriation item 100-632, Central Service 79923  
Agency, shall be used to purchase the necessary equipment, 79924  
products, and services to maintain a local area network for the 79925  
professional licensing boards, and to support their licensing 79926  
applications in fiscal years 2004 and 2005. The amount of the cash 79927  
transfer is appropriated to appropriation item 100-632, Central 79928  
Service Agency. 79929

**Section 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES** 79930

With approval of the Director of Budget and Management, the 79931  
Department of Administrative Services may seek reimbursement from 79932  
state agencies for the actual costs and expenses the department 79933  
incurs in the collective bargaining arbitration process. The 79934  
reimbursements shall be processed through intrastate transfer 79935  
vouchers and placed in the Collective Bargaining Fund (Fund 128). 79936

**Section 8.06. EQUAL OPPORTUNITY PROGRAM** 79937

The Department of Administrative Services, with the approval 79938  
of the Director of Budget and Management, shall establish charges 79939  
for recovering the costs of administering the activities supported 79940  
by the State EEO Fund (Fund 188). These charges shall be deposited 79941  
to the credit of the State EEO Fund (Fund 188) upon payment made 79942  
by state agencies, state-supported or state-assisted institutions 79943  
of higher education, and tax-supported agencies, municipal 79944  
corporations, and other political subdivisions of the state, for 79945  
services rendered. 79946

**Section 8.07. MERCHANDISE FOR RESALE** 79947

The foregoing appropriation item 100-653, General Services 79948  
Resale Merchandise, shall be used to account for merchandise for 79949  
resale, which is administered by the General Services Division. 79950  
Deposits to the fund may comprise the cost of merchandise for 79951  
resale and shipping fees. 79952

**Section 8.08. DEPARTMENTAL MIS** 79953

The foregoing appropriation item 100-603, Departmental MIS 79954  
Services, may be used to pay operating expenses of management 79955  
information systems activities in the Department of Administrative 79956  
Services. The Department of Administrative Services shall 79957  
establish charges for recovering the costs of management 79958  
information systems activities. These charges shall be deposited 79959  
to the credit of the Departmental MIS Services Fund (Fund 4P3). 79960

Notwithstanding any other language to the contrary, the 79961  
Director of Budget and Management may transfer up to \$1,000,000 of 79962  
fiscal year 2004 appropriations and up to \$1,000,000 of fiscal 79963  
year 2005 appropriations from appropriation item 100-603, 79964  
Departmental MIS Services, to any Department of Administrative 79965  
Services non-General Revenue Fund appropriation item. The 79966  
appropriations transferred shall be used to make payments for 79967  
management information systems services. 79968

**Section 8.09. INVESTMENT RECOVERY FUND** 79969

Notwithstanding division (B) of section 125.14 of the Revised 79970  
Code, cash balances in the Investment Recovery Fund (Fund 427) may 79971  
be used to support the operating expenses of the Federal Surplus 79972  
Operating Program created in sections 125.84 to 125.90 of the 79973  
Revised Code. 79974

Notwithstanding division (B) of section 125.14 of the Revised 79975

Code, cash balances in the Investment Recovery Fund may be used to 79976  
support the operating expenses of the State Property Inventory and 79977  
Fixed Assets Management System Program. 79978

Of the foregoing appropriation item 100-602, Investment 79979  
Recovery, up to \$1,958,155 in fiscal year 2004 and up to 79980  
\$2,049,162 in fiscal year 2005 shall be used to pay the operating 79981  
expenses of the State Surplus Property Program, the Surplus 79982  
Federal Property Program, and the State Property Inventory and 79983  
Fixed Assets Management System Program pursuant to Chapter 125. of 79984  
the Revised Code and this section. If additional appropriations 79985  
are necessary for the operations of these programs, the Director 79986  
of Administrative Services shall seek increased appropriations 79987  
from the Controlling Board under section 131.35 of the Revised 79988  
Code. 79989

Of the foregoing appropriation item 100-602, Investment 79990  
Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal 79991  
year 2005 shall be used to transfer proceeds from the sale of 79992  
surplus property from the Investment Recovery Fund to non-General 79993  
Revenue Funds pursuant to division (A)(2) of section 125.14 of the 79994  
Revised Code. If it is determined by the Director of 79995  
Administrative Services that additional appropriations are 79996  
necessary for the transfer of such sale proceeds, the Director of 79997  
Administrative Services may request the Director of Budget and 79998  
Management to increase the amounts. Such amounts are hereby 79999  
appropriated. 80000

Notwithstanding division (B) of section 125.14 of the Revised 80001  
Code, the Director of Budget and Management, at the request of the 80002  
Director of Administrative Services, shall transfer up to 80003  
\$2,811,197 of the amounts held for transfer to the General Revenue 80004  
Fund from the Investment Recovery Fund to the General Services 80005  
Fund (Fund 117) during the biennium beginning July 1, 2003, and 80006  
ending June 30, 2005. The cash transferred to the General Services 80007

Fund shall be used to pay the operating expenses of the 80008  
Competitive Sealed Proposal Program, to provide operating cash for 80009  
the General Services Fund, and to provide operating cash for the 80010  
newly created rate pools for Real Estate Leasing and Interior 80011  
Design Services. 80012

**Section 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM** 80013

Notwithstanding division (B)(3) of section 4505.09 of the 80014  
Revised Code, the Director of Budget and Management, at the 80015  
request of the Director of Administrative Services, may transfer 80016  
up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 80017  
2005 from the Automated Title Processing System (Fund 849) to the 80018  
Multi-Agency Radio Communications Systems Administration Fund 80019  
(Fund 5C2). The cash transferred to the Multi-Agency Radio 80020  
Communications Systems Administration Fund shall be used for the 80021  
development of the MARCS system. 80022

Effective with the implementation of the Multi-Agency Radio 80023  
Communications System, the Director of Administrative Services 80024  
shall collect user fees from participants in the system. The 80025  
Director of Administrative Services, with the advice of the 80026  
Multi-Agency Radio Communications System Steering Committee and 80027  
the Director of Budget and Management, shall determine the amount 80028  
of the fees and the manner by which the fees shall be collected. 80029  
Such user charges shall comply with the applicable cost principles 80030  
issued by the federal Office of Management and Budget. All moneys 80031  
from user charges and fees shall be deposited in the state 80032  
treasury to the credit of the Multi-Agency Radio Communications 80033  
System Administration Fund (Fund 5C2). All interest income derived 80034  
from the investment of the fund shall accrue to the fund. 80035

**Section 8.11. WORKFORCE DEVELOPMENT FUND** 80036

There is hereby established in the state treasury the 80037

Workforce Development Fund (Fund 5D7). The foregoing appropriation 80038  
item 100-621, Workforce Development, shall be used to make 80039  
payments from the fund. The fund shall be under the supervision of 80040  
the Department of Administrative Services, which may adopt rules 80041  
with regard to administration of the fund. The fund shall be used 80042  
to pay the costs of the Workforce Development Program, if any, as 80043  
previously established by Article 37 of the contract between the 80044  
State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, 80045  
and as modified by any successor labor contract between the State 80046  
of Ohio and OCSEA/AFSCME. The program shall be administered in 80047  
accordance with the contract. Revenues shall accrue to the fund as 80048  
specified in the contract. The fund may be used to pay direct and 80049  
indirect costs of the program that are attributable to staff, 80050  
consultants, and service providers. All income derived from the 80051  
investment of the fund shall accrue to the fund. 80052

If it is determined by the Director of Administrative 80053  
Services that additional appropriation amounts are necessary, the 80054  
Director of Administrative Services may request that the Director 80055  
of Budget and Management increase such amounts. Such amounts are 80056  
hereby appropriated. 80057

**Section 8.12. PROFESSIONAL DEVELOPMENT FUND** 80058

The foregoing appropriation item 100-610, Professional 80059  
Development, shall be used to make payments from the Professional 80060  
Development Fund (Fund 5L7) pursuant to section 124.182 of the 80061  
Revised Code. 80062

**Section 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT** 80063

There is hereby established in the state treasury the 80064  
Employee Educational Development Fund (Fund 5V6). The foregoing 80065  
appropriation item 100-619, Employee Educational Development, 80066  
shall be used to make payments from the fund. The fund shall be 80067

used to pay the costs of the administration of educational 80068  
programs per existing collective bargaining agreements with 80069  
District 1199, the Health Care and Social Service Union; State 80070  
Council of Professional Educators; Ohio Education Association; 80071  
National Education Association; the Fraternal Order of Police Ohio 80072  
Labor Council, Unit 2; and the Ohio State Troopers Association, 80073  
Units 1 and 15. The fund shall be under the supervision of the 80074  
Department of Administrative Services, which may adopt rules with 80075  
regard to administration of the fund. The fund shall be 80076  
administered in accordance with the applicable sections of the 80077  
collective bargaining agreements between the State and the 80078  
aforementioned unions. The Department of Administrative Services, 80079  
with the approval of the Director of Budget and Management, shall 80080  
establish charges for recovering the costs of administering the 80081  
educational programs. Receipts for these charges shall be 80082  
deposited into the Employee Educational Development Fund. All 80083  
income derived from the investment of the funds shall accrue to 80084  
the fund. 80085

If it is determined by the Director of Administrative 80086  
Services that additional appropriation amounts are necessary, the 80087  
Director of Administrative Services may request that the Director 80088  
of Budget and Management increase such amounts. Such amounts are 80089  
hereby appropriated with the approval of the Director of Budget 80090  
and Management. 80091

Upon the request of the Director of Administrative Services, 80092  
the Director of Budget and Management shall transfer any cash 80093  
balances attributable to educational programs per existing 80094  
collective bargaining agreements with District 1199, the Health 80095  
Care and Social Service Union; State Council of Professional 80096  
Educators; Ohio Education Association; National Education 80097  
Association; the Fraternal Order of Police Ohio Labor Council, 80098  
Unit 2; and the Ohio State Troopers Association, Units 1 and 15 80099

from the Human Resources Services Fund (Fund 125) to the Employee 80100  
Educational Development Fund (Fund 5V6). 80101

**Section 8.14. MAJOR IT PURCHASES** 80102

The Director of Administrative Services shall compute the 80103  
amount of revenue attributable to the amortization of all 80104  
equipment purchases and capitalized systems from appropriation 80105  
item 100-607, Information Technology Fund; appropriation item 80106  
100-617, Major IT Purchases; and appropriation item CAP-837, Major 80107  
IT Purchases, which is recovered by the Department of 80108  
Administrative Services as part of the rates charged by the 80109  
Information Technology Fund (Fund 133) created in section 125.15 80110  
of the Revised Code. The Director of Budget and Management may 80111  
transfer cash in an amount not to exceed the amount of 80112  
amortization computed from the Information Technology Fund (Fund 80113  
133) to the Major IT Purchases Fund (Fund 4N6). 80114

**Section 8.15. INFORMATION TECHNOLOGY ASSESSMENT** 80115

The Director of Administrative Services, with the approval of 80116  
the Director of Budget and Management, may establish an 80117  
information technology assessment for the purpose of recovering 80118  
the cost of selected infrastructure and statewide programs. Such 80119  
assessment shall comply with applicable cost principles issued by 80120  
the federal Office of Management and Budget. The information 80121  
technology assessment shall be charged to all organized bodies, 80122  
offices, or agencies established by the laws of the state for the 80123  
exercise of any function of state government except for the 80124  
General Assembly, any legislative agency, the Supreme Court, the 80125  
other courts of record in Ohio, or any judicial agency, the 80126  
Adjutant General, the Bureau of Workers' Compensation, and 80127  
institutions administered by a board of trustees. Any state-entity 80128  
exempted by this section may utilize the infrastructure or 80129

statewide program by participating in the information technology 80130  
assessment. All charges for the information technology assessment 80131  
shall be deposited to the credit of the Information Technology 80132  
Fund (Fund 133) created in section 125.15 of the Revised Code. 80133

**Section 8.16. UNEMPLOYMENT COMPENSATION FUND** 80134

The foregoing appropriation item 100-628, Unemployment 80135  
Compensation Pass Through, shall be used to make payments from the 80136  
Unemployment Compensation Fund (Fund 113), pursuant to section 80137  
4141.241 of the Revised Code. If it is determined that additional 80138  
amounts are necessary, such amounts are hereby appropriated. 80139

**Section 8.17. PAYROLL WITHHOLDING FUND** 80140

The foregoing appropriation item 100-629, Payroll Deductions, 80141  
shall be used to make payments from the Payroll Withholding Fund 80142  
(Fund 124). If it is determined by the Director of Budget and 80143  
Management that additional appropriation amounts are necessary, 80144  
such amounts are hereby appropriated. 80145

**Section 8.18. GENERAL SERVICES REFUNDS** 80146

The foregoing appropriation item 100-646, General Services 80147  
Refunds, shall be used to hold bid guarantee and building plans 80148  
and specifications deposits until they are refunded. The Director 80149  
of Administrative Services may request that the Director of Budget 80150  
and Management transfer cash received for the costs of providing 80151  
the building plans and specifications to contractors from the 80152  
General Services Refunds Fund to the State Architect's Office Fund 80153  
(Fund 131). Prior to the transfer of cash, the Director of 80154  
Administrative Services shall certify that such amounts are in 80155  
excess of amounts required for refunding deposits and are directly 80156  
related to costs of producing building plans and specifications. 80157  
If it is determined that additional appropriations are necessary, 80158

such amounts are hereby appropriated. 80159

**Section 8.19.** MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT 80160  
SERVICE PAYMENTS 80161

The Director of Administrative Services, in consultation with 80162  
the Multi-Agency Radio Communication System (MARCS) Steering 80163  
Committee and the Director of Budget and Management, shall 80164  
determine the share of debt service payments attributable to 80165  
spending for MARCS components that are not specific to any one 80166  
agency and that shall be charged to agencies supported by the 80167  
motor fuel tax. Such share of debt service payments shall be 80168  
calculated for MARCS capital disbursements made beginning July 1, 80169  
1997. Within thirty days of any payment made from appropriation 80170  
item 100-447, OBA - Building Rent Payments, the Director of 80171  
Administrative Services shall certify to the Director of Budget 80172  
and Management the amount of this share. The Director of Budget 80173  
and Management shall transfer such amounts to the General Revenue 80174  
Fund from the State Highway Safety Fund (Fund 036) established in 80175  
section 4501.06 of the Revised Code. 80176

The Director of Administrative Services shall consider 80177  
renting or leasing existing tower sites at reasonable or current 80178  
market rates, so long as these existing sites are equipped with 80179  
the technical capabilities to support the MARCS project. 80180

**Section 8.20.** DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 80181

Whenever the Director of Administrative Services declares a 80182  
"public exigency," as provided in division (C) of section 123.15 80183  
of the Revised Code, the Director shall also notify the members of 80184  
the Controlling Board. 80185

**Section 8.21.** GENERAL SERVICE CHARGES 80186

The Department of Administrative Services, with the approval 80187

of the Director of Budget and Management, shall establish charges 80188  
for recovering the costs of administering the programs in the 80189  
General Services Fund (Fund 117) and the State Printing Fund (Fund 80190  
210). 80191

**Section 8.22.** Notwithstanding section 123.10 of the Revised 80192  
Code, the Director of Administrative Services shall collect no 80193  
commissions or fees in connection with the rental of property 80194  
during the period beginning July 1, 2003, and ending June 30, 80195  
2005. 80196

**Section 9.** AAM COMMISSION ON AFRICAN AMERICAN MALES 80197

General Revenue Fund 80198

GRF 036-100 Personal Services \$ 212,492 \$ 218,610 80199

GRF 036-200 Maintenance \$ 50,180 \$ 50,180 80200

GRF 036-300 Equipment \$ 4,000 \$ 4,000 80201

GRF 036-501 CAAM Awards and \$ 8,143 \$ 765 80202

Scholarships

GRF 036-502 Community Projects \$ 25,185 \$ 26,445 80203

TOTAL GRF General Revenue Fund \$ 300,000 \$ 300,000 80204

State Special Revenue Fund Group 80205

4H3 036-601 Commission on African \$ 10,000 \$ 10,000 80206

American Males -

Gifts/Grants

TOTAL SSR State Special Revenue \$ 10,000 \$ 10,000 80207

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 310,000 \$ 310,000 80208

COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW 80209

Annually, not later than the thirty-first day of December, 80210

the Commission on African American Males shall internally prepare 80211

and submit to the chairperson and ranking minority member of the 80212

Human Services Subcommittee of the Finance and Appropriations 80213

Committee of the House of Representatives a report that 80214  
demonstrates the progress that has been made toward meeting the 80215  
Commission's mission statement. 80216

From the foregoing appropriations, the Commission on African 80217  
American Males shall provide in each fiscal year \$50,000 to the 80218  
Cincinnati State Community College to purchase books and equipment 80219  
in order to furnish the Cincinnati State William F. Bowen Room 80220  
that will honor Ohio's African-American legislators. 80221

**Section 10.** JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 80222

General Revenue Fund 80223

GRF 029-321 Operating Expenses	\$	363,769	\$	379,769	80224
TOTAL GRF General Revenue Fund	\$	363,769	\$	379,769	80225
TOTAL ALL BUDGET FUND GROUPS	\$	363,769	\$	379,769	80226

OPERATING 80227

The Chief Administrative Officer of the House of 80228  
Representatives and the Clerk of the Senate shall determine, by 80229  
mutual agreement, which of them shall act as fiscal agent for the 80230  
Joint Committee on Agency Rule Review. 80231

**Section 11.** AGE DEPARTMENT OF AGING 80232

General Revenue Fund 80233

GRF 490-321 Operating Expenses	\$	2,308,867	\$	2,308,867	80234
GRF 490-403 PASSPORT	\$	81,008,877	\$	103,746,032	80235
GRF 490-405 Golden Buckeye Card	\$	297,628	\$	297,628	80236
GRF 490-406 Senior Olympics	\$	16,636	\$	16,636	80237
GRF 490-407 Long-Term Care	\$	285,000	\$	285,000	80238
Consumer Guide					
GRF 490-409 Ohio Community Service	\$	228,048	\$	228,048	80239
Council Operations					
GRF 490-410 Long-Term Care	\$	729,685	\$	729,685	80240
Ombudsman					

GRF 490-411	Senior Community Services	\$	11,271,431	\$	11,271,431	80241
GRF 490-412	Residential State Supplement	\$	9,960,356	\$	10,210,356	80242
GRF 490-414	Alzheimers Respite	\$	4,346,689	\$	4,346,689	80243
GRF 490-416	Transportation for Elderly	\$	138,369	\$	138,369	80244
GRF 490-419	Prescription Drug Discount Program	\$	169,986	\$	169,986	80245
GRF 490-506	Senior Volunteers	\$	375,471	\$	375,471	80246
TOTAL GRF	General Revenue Fund	\$	111,137,043	\$	134,124,198	80247
General Services Fund Group						80248
480 490-606	Senior Citizens Services Special Events	\$	372,677	\$	372,677	80249
5T4 490-615	Aging Network Support	\$	252,830	\$	252,830	80250
TOTAL GSF	General Services Fund Group	\$	625,507	\$	625,507	80251
Federal Special Revenue Fund Group						80253
3C4 490-607	PASSPORT	\$	142,926,054	\$	151,954,474	80254
3M3 490-611	Federal Aging Nutrition	\$	25,541,095	\$	26,818,149	80255
3M4 490-612	Federal Supportive Services	\$	26,305,294	\$	27,094,453	80256
3R7 490-617	Ohio Community Service Council Programs	\$	8,951,150	\$	8,905,150	80257
322 490-618	Older Americans Support Services	\$	12,904,949	\$	13,298,626	80258
TOTAL FED	Federal Special Revenue Fund Group	\$	216,628,542	\$	228,070,852	80259
State Special Revenue Fund Group						80261
4C4 490-609	Regional Long-Term	\$	829,321	\$	829,321	80262

		Care Ombudsman Program					
4J4	490-610	PASSPORT/Residential	\$	33,268,052	\$	33,263,984	80263
		State Supplement					
4U9	490-602	PASSPORT Fund	\$	5,500,000	\$	5,500,000	80264
5K9	490-613	Nursing Home Consumer	\$	400,000	\$	400,000	80265
		Guide					
5W1	490-616	Resident Services	\$	250,000	\$	250,000	80266
		Coordinator Program					
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	80267
		TOTAL SSR State Special Revenue					80268
		Fund Group	\$	40,249,873	\$	40,245,805	80269
		TOTAL ALL BUDGET FUND GROUPS	\$	368,640,965	\$	403,066,362	80270

**Section 11.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY** 80272

ADMISSION 80273

Pursuant to sections 5101.751 and 5101.754 of the Revised 80274  
Code and an interagency agreement, the Department of Job and 80275  
Family Services shall designate the Department of Aging to perform 80276  
assessments under sections 5101.75 and 5111.204 of the Revised 80277  
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 80278  
Department of Aging may use not more than \$2,511,309 in fiscal 80279  
year 2004 and \$2,574,092 in fiscal year 2005 to perform the 80280  
assessments for persons not eligible for Medicaid in accordance 80281  
with the department's interagency agreement with the Department of 80282  
Job and Family Services and to assist individuals in planning for 80283  
their long-term health care needs. 80284

**Section 11.02. PASSPORT** 80285

Appropriation item 490-403, PASSPORT, and the amounts set 80286  
aside for the PASSPORT Waiver Program in appropriation item 80287  
490-610, PASSPORT/Residential State Supplement, may be used to 80288  
assess clients regardless of Medicaid eligibility. 80289

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 80321  
promote cost sharing by service recipients for those services 80322  
funded with block grant funds, including, where possible, 80323  
sliding-fee scale payment systems based on the income of service 80324  
recipients. 80325

ALZHEIMERS RESPITE 80326

The foregoing appropriation item 490-414, Alzheimers Respite, 80327  
shall be used to fund only Alzheimer's disease services under 80328  
section 173.04 of the Revised Code. 80329

TRANSPORTATION FOR ELDERLY 80330

The foregoing appropriation item 490-416, Transportation for 80331  
Elderly, shall be used for noncapital expenses related to 80332  
transportation services for the elderly that provide access to 80333  
such things as healthcare services, congregate meals, 80334  
socialization programs, and grocery shopping. The funds pass 80335  
through and shall be administered by the Area Agencies on Aging. 80336  
The appropriation shall be allocated to the following agencies: 80337

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80338  
fiscal year 2005 to the Jewish Vocational Services/Cincinnati; 80339

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80340  
fiscal year 2005 to the Jewish Community Center of Cleveland; 80341

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80342  
fiscal year 2005 to the Wexner Heritage Village/Columbus; 80343

(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in 80344  
fiscal year 2005 to the Jewish Family Services of Dayton; 80345

(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in 80346  
fiscal year 2005 to the Jewish Community Center of Akron; 80347

(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in 80348  
fiscal year 2005 to the Jewish Community Center/Youngstown; 80349

(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in 80350

fiscal year 2005 to the Jewish Community Center/Canton; 80351

(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in 80352  
fiscal year 2005 to the Jewish Community Center/Sylvania. 80353

Agencies receiving funding from appropriation item 490-416, 80354  
Transportation for Elderly, shall coordinate services with other 80355  
local service agencies. 80356

RESIDENTIAL STATE SUPPLEMENT 80357

Under the Residential State Supplement Program, the amount 80358  
used to determine whether a resident is eligible for payment and 80359  
for determining the amount per month the eligible resident will 80360  
receive shall be as follows: 80361

(A) \$900 for a residential care facility, as defined in 80362  
section 3721.01 of the Revised Code; 80363

(B) \$900 for an adult group home, as defined in Chapter 3722. 80364  
of the Revised Code; 80365

(C) \$800 for an adult foster home, as defined in Chapter 173. 80366  
of the Revised Code; 80367

(D) \$800 for an adult family home, as defined in Chapter 80368  
3722. of the Revised Code; 80369

(E) \$800 for an adult community alternative home, as defined 80370  
in Chapter 3724. of the Revised Code; 80371

(F) \$800 for an adult residential facility, as defined in 80372  
Chapter 5119. of the Revised Code; 80373

(G) \$600 for adult community mental health housing services, 80374  
as defined in division (B)(5) of section 173.35 of the Revised 80375  
Code. 80376

The Departments of Aging and Job and Family Services shall 80377  
reflect these amounts in any applicable rules the departments 80378  
adopt under section 173.35 of the Revised Code. 80379

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	80380
The Department of Aging may transfer cash by intrastate	80381
transfer vouchers from the foregoing appropriation items 490-412,	80382
Residential State Supplement, and 490-610, PASSPORT/Residential	80383
State Supplement, to the Department of Job and Family Services'	80384
Fund 4J5, Home and Community-Based Services for the Aged Fund. The	80385
funds shall be used to make benefit payments to Residential State	80386
Supplement recipients.	80387
LONG-TERM CARE OMBUDSMAN	80388
The foregoing appropriation item 490-410, Long-Term Care	80389
Ombudsman, shall be used for a program to fund ombudsman program	80390
activities in nursing homes, adult care facilities, boarding	80391
homes, and home and community care services.	80392
PRESCRIPTION DRUG DISCOUNT PROGRAM	80393
The foregoing appropriation item 490-419, Prescription Drug	80394
Discount Program, shall be used to administer a prescription drug	80395
discount program.	80396
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS	80397
The foregoing appropriation item 490-609, Regional Long-Term	80398
Care Ombudsman Programs, shall be used solely to pay the costs of	80399
operating the regional long-term care ombudsman programs.	80400
PASSPORT/RESIDENTIAL STATE SUPPLEMENT	80401
Of the foregoing appropriation item 490-610,	80402
PASSPORT/Residential State Supplement, up to \$2,835,000 each	80403
fiscal year may be used to fund the Residential State Supplement	80404
Program. The remaining available funds shall be used to fund the	80405
PASSPORT program.	80406
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL	80407
SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES	80408

Upon written request of the Director of Aging, the Director 80409  
of Budget and Management may transfer appropriation authority 80410  
among appropriation items 490-611, Federal Aging Nutrition, 80411  
490-612, Federal Supportive Services, and 490-618, Older Americans 80412  
Support Services, in amounts not to exceed 30 per cent of the 80413  
appropriation from which the transfer is made. The Department of 80414  
Aging shall report such transfers to the Controlling Board at the 80415  
next regularly scheduled meeting of the board. 80416

OHIO COMMUNITY SERVICE COUNCIL 80417

The foregoing appropriation items 490-409, Ohio Community 80418  
Service Council Operations, and 490-617, Ohio Community Service 80419  
Council Programs, shall be used in accordance with section 121.40 80420  
of the Revised Code. 80421

**Section 12. AGR DEPARTMENT OF AGRICULTURE** 80422

General Revenue Fund 80423

GRF 700-321	Operating Expenses	\$	2,737,665	\$	2,771,628	80424
GRF 700-401	Animal Disease Control	\$	4,121,815	\$	4,121,815	80425
GRF 700-402	Amusement Ride Safety	\$	278,767	\$	275,943	80426
GRF 700-403	Dairy Division	\$	1,494,597	\$	1,494,153	80427
GRF 700-404	Ohio Proud	\$	197,727	\$	197,229	80428
GRF 700-405	Animal Damage Control	\$	94,954	\$	94,954	80429
GRF 700-406	Consumer Analytical	\$	819,281	\$	872,241	80430

Lab

GRF 700-407	Food Safety	\$	999,042	\$	999,042	80431
GRF 700-409	Farmland Preservation	\$	256,993	\$	256,993	80432
GRF 700-410	Plant Industry	\$	1,109,867	\$	1,107,677	80433
GRF 700-411	International Trade	\$	621,049	\$	517,524	80434

and Market Development

GRF 700-412	Weights and Measures	\$	914,137	\$	909,120	80435
GRF 700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299	80436
GRF 700-414	Concentrated Animal	\$	16,521	\$	16,086	80437

		Feeding Facilities					
		Advisory Committee					
GRF	700-415	Poultry Inspection	\$	270,645	\$	267,743	80438
GRF	700-418	Livestock Regulation	\$	1,306,911	\$	1,306,911	80439
		Program					
GRF	700-424	Livestock Testing and	\$	123,347	\$	123,347	80440
		Inspections					
GRF	700-499	Meat Inspection	\$	4,651,611	\$	4,696,889	80441
		Program - State Share					
GRF	700-501	County Agricultural	\$	381,091	\$	381,091	80442
		Societies					
TOTAL GRF		General Revenue Fund	\$	20,942,138	\$	20,986,685	80443
		Federal Special Revenue Fund Group					80444
3J4	700-607	Indirect Cost	\$	938,785	\$	949,877	80445
3R2	700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000	80446
326	700-618	Meat Inspection	\$	4,876,904	\$	4,951,291	80447
		Service - Federal					
		Share					
336	700-617	Ohio Farm Loan	\$	181,774	\$	181,774	80448
		Revolving Fund					
382	700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000	80449
TOTAL FED		Federal Special Revenue					80450
Fund Group			\$	9,797,463	\$	10,007,942	80451
		State Special Revenue Fund Group					80452
4C9	700-605	Feed, Fertilizer, and	\$	986,765	\$	1,008,541	80453
		Lime Inspection					
4D2	700-609	Auction Education	\$	30,476	\$	30,476	80454
4E4	700-606	Utility Radiological	\$	73,059	\$	73,059	80455
		Safety					
4P7	700-610	Food Safety Inspection	\$	575,797	\$	582,711	80456
4R0	700-636	Ohio Proud Marketing	\$	40,300	\$	38,300	80457
4R2	700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183	80458

4T6	700-611	Poultry and Meat Inspection	\$	46,162	\$	47,294	80459
4T7	700-613	International Trade and Market Development Rotary	\$	41,238	\$	42,000	80460
4V5	700-615	Animal Industry Lab Fees	\$	711,944	\$	711,944	80461
494	700-612	Agricultural Commodity Marketing Program	\$	170,077	\$	170,220	80462
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099	80463
497	700-627	Commodity Handlers Regulatory Program	\$	664,118	\$	664,118	80464
498	700-628	Commodity Indemnity Fund	\$	250,000	\$	250,000	80465
5B8	700-629	Auctioneers	\$	291,672	\$	365,390	80466
5H2	700-608	Metrology Lab	\$	105,879	\$	108,849	80467
5L8	700-604	Livestock Management Program	\$	250,000	\$	250,000	80468
578	700-620	Ride Inspection Fees	\$	497,000	\$	497,000	80469
579	700-630	Scale Certification	\$	168,785	\$	171,677	80470
652	700-634	Laboratory Services	\$	1,043,444	\$	1,074,447	80471
669	700-635	Pesticide Program	\$	2,243,232	\$	2,243,232	80472
TOTAL SSR State Special Revenue							80473
Fund Group			\$	10,418,650	\$	10,584,540	80474
Clean Ohio Fund Group							80475
057	700-632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000	80476
TOTAL CLR Clean Ohio Fund Group							80477
Holding Account Redistribution Fund Group							80478
XXX	700-XXX	Farm Service Electronic Filing	\$	60,000	\$	60,000	80479
TOTAL 090 Holding Account							80480



FARM SERVICE ELECTRONIC FILING				80510
As soon as possible on or after July 1, 2003, the Director of				80511
Budget and Management shall make a one-time cash transfer of				80512
\$60,000 from Fund 382, Cooperative Contracts, to Fund XXX, Farm				80513
Service Electronic Filing Fund, in fiscal year 2004. The Farm				80514
Service Electronic Filing Fund shall be administered by the				80515
Department of Agriculture.				80516
<b>Section 13. AIR AIR QUALITY DEVELOPMENT AUTHORITY</b>				80517
Agency Fund Group				80518
4Z9 898-602 Small Business	\$	233,482	\$ 233,482	80519
Ombudsman				
5A0 898-603 Small Business	\$	197,463	\$ 197,463	80520
Assistance				
570 898-601 Operating Expenses	\$	243,383	\$ 243,383	80521
TOTAL AGY Agency Fund Group	\$	674,328	\$ 674,328	80522
TOTAL ALL BUDGET FUND GROUPS	\$	674,328	\$ 674,328	80523
<b>Section 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION</b>				80525
SERVICES				80526
General Revenue Fund				80527
GRF 038-321 Operating Expenses	\$	1,200,293	\$ 1,200,293	80528
GRF 038-401 Treatment Services	\$	36,762,306	\$ 36,762,306	80529
GRF 038-404 Prevention Services	\$	1,055,033	\$ 1,055,033	80530
TOTAL GRF General Revenue Fund	\$	39,017,632	\$ 39,017,632	80531
General Services Fund				80532
5T9 038-616 Problem Gambling	\$	60,000	\$ 60,000	80533
Services				
TOTAL GSF General Services Fund	\$	60,000	\$ 60,000	80534
Group				
Federal Special Revenue Fund Group				80535

3G3	038-603	Drug Free Schools	\$	3,500,000	\$	3,500,000	80536
3G4	038-614	Substance Abuse Block Grant	\$	67,335,499	\$	68,079,223	80537
3H8	038-609	Demonstration Grants	\$	7,093,075	\$	7,093,075	80538
3J8	038-610	Medicaid	\$	30,000,000	\$	30,000,000	80539
3N8	038-611	Administrative Reimbursement	\$	500,000	\$	500,000	80540
TOTAL FED Federal Special Revenue							80541
Fund Group			\$	108,428,574	\$	109,172,298	80542
State Special Revenue Fund Group							80543
475	038-621	Statewide Treatment and Prevention	\$	15,191,182	\$	15,191,182	80544
5P1	038-615	Credentialing	\$	225,000	\$	0	80545
689	038-604	Education and Conferences	\$	280,000	\$	280,000	80546
TOTAL SSR State Special Revenue							80547
Fund Group			\$	15,696,182	\$	15,471,182	80548
TOTAL ALL BUDGET FUND GROUPS			\$	163,202,388	\$	163,721,112	80549
TREATMENT SERVICES							80550
Of the foregoing appropriation item 038-401, Treatment							80551
Services, not more than \$8,190,000 shall be used by the Department							80552
of Alcohol and Drug Addiction Services for program grants for							80553
priority populations in each year of the biennium.							80554
AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY							80555
Of the foregoing appropriation item 038-401, Treatment							80556
Services, \$4 million in each fiscal year shall be allocated for							80557
services to families, adults, and adolescents pursuant to the							80558
requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.							80559
TALBERT HOUSE							80560
Of the foregoing appropriation item 038-401, Treatment							80561
Services, \$200,000 in each fiscal year shall be allocated to							80562

establish a Talbert House Facility in Butler County. These funds 80563  
are in addition to any other funds for which the Talbert House 80564  
facility and Butler County are eligible to receive from the 80565  
Department of Alcohol and Drug Addiction Services. 80566

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 80567

Of the foregoing appropriation item 038-401, Treatment 80568  
Services, \$5 million each year shall be used to fund TANF-eligible 80569  
expenditures for substance abuse prevention and treatment services 80570  
to children, or their families, whose income is at or below 200 80571  
per cent of the official income poverty guideline. The Director of 80572  
Alcohol and Drug Addiction Services and the Director of Job and 80573  
Family Services shall develop operating and reporting guidelines 80574  
for these programs. 80575

THERAPEUTIC COMMUNITIES 80576

Of the foregoing appropriation item 038-401, Treatment 80577  
Services, \$750,000 shall be used in each fiscal year for expansion 80578  
of the Therapeutic Communities Program in the Department of 80579  
Rehabilitation and Correction. 80580

PARENT AWARENESS TASK FORCE 80581

The Parent Awareness Task Force shall study ways to engage 80582  
more parents in activities, coalitions, and educational programs 80583  
in Ohio relating to alcohol and other drug abuse prevention. Of 80584  
the foregoing appropriation item 038-404, Prevention Services, 80585  
\$30,000 in each fiscal year may be used to support the functions 80586  
of the Parent Awareness Task Force. 80587

COMMUNITY CAPITAL ASSISTANCE FUNDS 80588

Any proceeds from the repayment of ODADAS community capital 80589  
assistance funds from St. Anthony's Villa shall be deposited into 80590  
Fund 475, appropriation item 038-621, Statewide Treatment and 80591  
Prevention, and such amounts are hereby appropriated for 80592

distribution to other community capital assistance projects in 80593  
 Lucas County. 80594

**Section 15. AMB AMBULANCE LICENSING BOARD 80595**

General Services Fund Group 80596  
 4N1 915-601 Operating Expenses \$ 272,340 \$ 284,054 80597  
 TOTAL GSF General Services 80598  
 Fund Group \$ 272,340 \$ 284,054 80599  
 TOTAL ALL BUDGET FUND GROUPS \$ 272,340 \$ 284,054 80600

**Section 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 80602**

General Services Fund Group 80603  
 4K9 891-609 Operating Expenses \$ 480,574 \$ 479,574 80604  
 TOTAL GSF General Services Fund 80605  
 Group \$ 480,574 \$ 479,574 80606  
 TOTAL ALL BUDGET FUND GROUPS \$ 480,574 \$ 479,574 80607

**Section 17. ART OHIO ARTS COUNCIL 80609**

General Revenue Fund 80610  
 GRF 370-100 Personal Services \$ 1,896,848 \$ 1,892,879 80611  
 GRF 370-200 Maintenance \$ 547,404 \$ 532,998 80612  
 GRF 370-300 Equipment \$ 227,788 \$ 27,056 80613  
 GRF 370-502 Program Subsidies \$ 9,896,320 \$ 9,648,912 80614  
 TOTAL GRF General Revenue Fund \$ 12,568,360 \$ 12,101,845 80615  
 General Services Fund Group 80616  
 4B7 370-603 Per Cent for Art \$ 86,366 \$ 86,366 80617  
     Acquisitions  
 460 370-602 Operations \$ 429,325 \$ 429,325 80618  
 TOTAL GSF General Services Fund \$ 515,691 \$ 515,691 80619  
 Group  
 Federal Special Revenue Fund Group 80620  
 314 370-601 Federal Programs \$ 1,657,300 \$ 1,657,300 80621

TOTAL FED Federal Special Revenue	\$	1,657,300	\$	1,657,300	80622
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,741,351	\$	14,274,836	80623
EQUIPMENT					80624
Of the foregoing appropriation item 370-300, Equipment,					80625
\$200,000 in fiscal year 2004 shall be used for computer upgrades.					80626
PROGRAM SUBSIDIES					80627
A museum is not eligible to receive funds from appropriation					80628
item 370-502, Program Subsidies, if \$8,000,000 or more in capital					80629
appropriations were appropriated by the state for the museum					80630
between January 1, 1986, and December 31, 2002.					80631
PER CENT FOR ART ACQUISITIONS					80632
The unencumbered balance remaining from prior projects of					80633
appropriation item 370-603, Per Cent for Art Acquisitions, shall					80634
be used by the Ohio Arts Council to pay for start-up costs in					80635
connection with the selection of artists of new Per Cent for Art					80636
projects.					80637
<b>Section 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION</b>					80638
General Revenue Fund					80639
GRF 371-321 Operating Expenses	\$	97,451	\$	97,451	80640
GRF 371-401 Lease Rental Payments	\$	36,283,800	\$	37,617,700	80641
TOTAL GRF General Revenue Fund	\$	36,381,251	\$	37,715,151	80642
State Special Revenue Fund Group					80643
4T8 371-601 Riffe Theatre	\$	23,194	\$	23,194	80644
Equipment Maintenance					
4T8 371-603 Project Administration	\$	1,035,377	\$	1,074,339	80645
TOTAL SSR State Special Revenue	\$	1,058,571	\$	1,097,533	80646
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	37,439,822	\$	38,812,684	80647

OHIO BUILDING AUTHORITY LEASE PAYMENTS 80648

The foregoing appropriation item 371-401, Lease Rental 80649  
Payments, shall be used by the Arts and Sports Facilities 80650  
Commission for payments to the Ohio Building Authority for the 80651  
period from July 1, 2003, to June 30, 2005, pursuant to the 80652  
primary leases and agreements for those buildings made under 80653  
Chapter 152. of the Revised Code, but limited to the aggregate 80654  
amount of \$73,901,500. This appropriation is the source of funds 80655  
pledged for bond service charges on related obligations issued 80656  
pursuant to Chapter 152. of the Revised Code. 80657

OPERATING EXPENSES 80658

The foregoing appropriation item 371-603, Project 80659  
Administration, shall be used by the Ohio Arts and Sports 80660  
Facilities Commission to carry out its responsibilities pursuant 80661  
to this section and Chapter 3383. of the Revised Code. 80662

Within ten days after the effective date of this section, or 80663  
as soon as possible thereafter, the Director of Budget and 80664  
Management shall determine the amount of cash from interest 80665  
earnings to be transferred from the Arts Facilities Building Fund 80666  
(Fund 030) and the Sports Facilities Building Fund (Fund 024) to 80667  
the Arts and Sports Facilities Commission Administration Fund 80668  
(Fund 4T8). The total amount transferred in fiscal year 2004 and 80669  
fiscal year 2005 may not exceed the total biennial appropriation 80670  
of \$2,109,716 in appropriation item 371-603, Project 80671  
Administration. 80672

By July 10, 2004, or as soon as possible thereafter, the 80673  
Director of Budget and Management shall determine the amount of 80674  
cash from interest earnings to be transferred from the Arts 80675  
Facilities Building Fund (Fund 030) and the Sports Facilities 80676  
Building Fund (Fund 024) to the Arts and Sports Commission 80677  
Administration Fund (Fund 4T8). The total amount transferred in 80678

fiscal year 2004 and in fiscal year 2005 may not exceed the total 80679  
biennial appropriation of \$2,109,716 in appropriation item 80680  
371-603, Project Administration. 80681

**Section 19. ATH ATHLETIC COMMISSION** 80682

General Services Fund Group 80683

4K9 175-609 Athletic Commission - \$ 188,250 \$ 200,205 80684

Operating

TOTAL GSF General Services Fund \$ 188,250 \$ 200,205 80685

Group

TOTAL ALL BUDGET FUND GROUPS \$ 188,250 \$ 200,205 80686

**TRANSFER OF CASH BALANCE FROM FUND 5R1** 80687

On July 1, 2003, or as soon thereafter as possible, the 80688  
Director of Budget and Management shall transfer the cash balance 80689  
in the Athlete Agents Registration Fund (Fund 5R1) that was 80690  
created in former section 4771.22 of the Revised Code to the 80691  
Occupational Licensing and Regulatory Fund (Fund 4K9). The 80692  
director shall cancel any existing encumbrances against 80693  
appropriation item 175-602, Athlete Agents Registration (Fund 80694  
5R1), and reestablish them against appropriation item 175-609, 80695  
Athletic Commission - Operating (Fund 4K9). The amounts of the 80696  
reestablished encumbrances are hereby appropriated. 80697

**Section 20. AGO ATTORNEY GENERAL** 80698

General Revenue Fund 80699

GRF 055-321 Operating Expenses \$ 53,885,937 \$ 53,885,937 80700

GRF 055-405 Law-Related Education \$ 193,402 \$ 194,183 80701

GRF 055-406 Community Police Match \$ 2,258,843 \$ 2,258,843 80702

and Law Enforcement

Assistance

GRF 055-411 County Sheriffs \$ 731,879 \$ 736,929 80703

GRF 055-415 County Prosecutors \$ 717,182 \$ 723,490 80704

TOTAL GRF General Revenue Fund	\$	57,787,243	\$	57,799,382	80705
General Services Fund Group					80706
106 055-612 General Reimbursement	\$	18,870,196	\$	18,870,196	80707
107 055-624 Employment Services	\$	984,396	\$	984,396	80708
195 055-660 Workers' Compensation	\$	7,769,628	\$	7,769,628	80709
Section					
4Y7 055-608 Title Defect	\$	570,623	\$	570,623	80710
Rescission					
4Z2 055-609 BCI Asset Forfeiture	\$	332,109	\$	332,109	80711
and Cost Reimbursement					
418 055-615 Charitable Foundations	\$	1,899,066	\$	1,899,066	80712
420 055-603 Attorney General	\$	446,449	\$	446,449	80713
Antitrust					
421 055-617 Police Officers'	\$	1,193,213	\$	1,193,213	80714
Training Academy Fee					
5A9 055-618 Telemarketing Fraud	\$	52,378	\$	52,378	80715
Enforcement					
590 055-633 Peace Officer Private	\$	98,370	\$	98,370	80716
Security Fund					
629 055-636 Corrupt Activity	\$	108,230	\$	108,230	80717
Investigation and					
Prosecution					
631 055-637 Consumer Protection	\$	1,373,832	\$	1,373,832	80718
Enforcement					
TOTAL GSF General Services Fund					80719
Group	\$	33,698,490	\$	33,698,490	80720
Federal Special Revenue Fund Group					80721
3E5 055-638 Anti-Drug Abuse	\$	1,923,400	\$	1,981,102	80722
3R6 055-613 Attorney General	\$	3,730,191	\$	3,842,097	80723
Federal Funds					
306 055-620 Medicaid Fraud Control	\$	2,882,970	\$	2,969,459	80724
381 055-611 Civil Rights Legal	\$	390,815	\$	390,815	80725

Service				
383	055-634	Crime Victims	\$ 17,561,250	\$ 18,439,313 80726
Assistance				
TOTAL FED Federal Special Revenue				80727
Fund Group			\$ 26,488,626	\$ 27,622,786 80728
State Special Revenue Fund Group				80729
4L6	055-606	DARE	\$ 3,927,962	\$ 3,927,962 80730
402	055-616	Victims of Crime	\$ 27,933,893	\$ 27,933,893 80731
417	055-621	Domestic Violence	\$ 14,492	\$ 14,492 80732
Shelter				
419	055-623	Claims Section	\$ 13,649,954	\$ 13,649,954 80733
659	055-641	Solid and Hazardous	\$ 621,159	\$ 621,159 80734
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				80735
Fund Group			\$ 46,147,460	\$ 46,147,460 80736
Holding Account Redistribution Fund Group				80737
R03	055-629	Bingo License Refunds	\$ 5,200	\$ 5,200 80738
R04	055-631	General Holding	\$ 275,000	\$ 275,000 80739
Account				
R05	055-632	Antitrust Settlements	\$ 10,400	\$ 10,400 80740
R18	055-630	Consumer Frauds	\$ 750,000	\$ 750,000 80741
R42	055-601	Organized Crime	\$ 200,000	\$ 200,000 80742
Commission Account				
TOTAL 090 Holding Account				80743
Redistribution Fund Group			\$ 1,240,600	\$ 1,240,600 80744
TOTAL ALL BUDGET FUND GROUPS				\$ 165,362,419 \$ 166,508,718 80745
LAW-RELATED EDUCATION				80746
The foregoing appropriation item 055-405, Law-Related				80747
Education, shall be distributed directly to the Ohio Center for				80748
Law-Related Education for the purposes of providing continuing				80749
citizenship education activities to primary and secondary students				80750

and accessing additional public and private money for new programs. 80751  
80752

WORKERS' COMPENSATION SECTION 80753

The Workers' Compensation Section Fund (Fund 195) shall 80754  
receive payments from the Bureau of Workers' Compensation and the 80755  
Ohio Industrial Commission at the beginning of each quarter of 80756  
each fiscal year to fund legal services to be provided to the 80757  
Bureau of Workers' Compensation and the Ohio Industrial Commission 80758  
during the ensuing quarter. Such advance payment shall be subject 80759  
to adjustment. 80760

In addition, the Bureau of Workers' Compensation shall 80761  
transfer payments at the beginning of each quarter for the support 80762  
of the Workers' Compensation Fraud Unit. 80763

All amounts shall be mutually agreed upon by the Attorney 80764  
General, the Bureau of Workers' Compensation, and the Ohio 80765  
Industrial Commission. 80766

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 80767

The foregoing appropriation item 055-636, Corrupt Activity 80768  
Investigation and Prosecution, shall be used as provided by 80769  
division (D)(2) of section 2923.35 of the Revised Code to dispose 80770  
of the proceeds, fines, and penalties credited to the Corrupt 80771  
Activity Investigation and Prosecution Fund, which is created in 80772  
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 80773  
is determined that additional amounts are necessary, the amounts 80774  
are hereby appropriated. 80775

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE 80776

In fiscal years 2004 and 2005, the Attorney General's Office 80777  
may request the Director of Budget and Management to transfer 80778  
appropriation authority from appropriation item 055-321, Operating 80779  
Expenses, to appropriation item 055-406, Community Police Match 80780

and Law Enforcement Assistance. The Director of Budget and 80781  
Management shall then transfer appropriation authority from 80782  
appropriation item 055-321, Operating Expenses, to appropriation 80783  
item 055-406, Community Police Match and Law Enforcement 80784  
Assistance. Moneys transferred to appropriation item 055-406, 80785  
Community Police Match and Law Enforcement Assistance, shall be 80786  
used to pay operating expenses and to provide grants to local law 80787  
enforcement agencies and communities for the purpose of supporting 80788  
law enforcement-related activities. 80789

**Section 21. AUD AUDITOR OF STATE** 80790

General Revenue Fund 80791

GRF 070-321 Operating Expenses \$ 30,813,217 \$ 30,813,217 80792

GRF 070-403 Fiscal Watch/Emergency \$ 750,000 \$ 950,000 80793  
Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193 80794  
Processing - Auditing  
and Administration

GRF 070-406 Uniform Accounting \$ 1,774,394 \$ 1,774,394 80795  
Network/Technology  
Improvements Fund

TOTAL GRF General Revenue Fund \$ 34,160,804 \$ 34,360,804 80796

General Services Fund Group 80797

109 070-601 Public Audit Expense - \$ 10,592,547 \$ 11,651,800 80798  
Intra-State

422 070-601 Public Audit Expense - \$ 37,617,072 \$ 39,497,925 80799  
Local Government

584 070-603 Training Program \$ 124,999 \$ 131,250 80800

675 070-605 Uniform Accounting \$ 3,015,760 \$ 3,317,336 80801  
Network

TOTAL GSF General Services Fund 80802

Group \$ 51,350,378 \$ 54,598,311 80803

Holding Account Redistribution Fund Group				80804
R06 070-604 Continuous Receipts	\$	50,000	\$ 60,000	80805
TOTAL 090 Holding Account				80806
Redistribution Fund Group	\$	50,000	\$ 60,000	80807
TOTAL ALL BUDGET FUND GROUPS	\$	85,561,182	\$ 89,019,115	80808

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 80809

The foregoing appropriation item 070-403, Fiscal 80810  
 Watch/Emergency Technical Assistance, shall be used for all 80811  
 expenses incurred by the Office of the Auditor of State in its 80812  
 role relating to fiscal watch or fiscal emergency activities under 80813  
 Chapters 118. and 3316. of the Revised Code. Expenses include, but 80814  
 are not limited to, the following: duties related to the 80815  
 determination or termination of fiscal watch or fiscal emergency 80816  
 of municipal corporations, counties, or townships as outlined in 80817  
 Chapter 118. of the Revised Code and of school districts as 80818  
 outlined in Chapter 3316. of the Revised Code; development of 80819  
 preliminary accounting reports; performance of annual forecasts; 80820  
 provision of performance audits; and supervisory, accounting, or 80821  
 auditing services for the mentioned public entities and school 80822  
 districts. The unencumbered balance of appropriation item 070-403, 80823  
 Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 80824  
 year 2004 is transferred to fiscal year 2005 for use under the 80825  
 same appropriation item. 80826

ELECTRONIC DATA PROCESSING 80827

The unencumbered balance of appropriation item 070-405, 80828  
 Electronic Data Processing - Auditing and Administration, at the 80829  
 end of fiscal year 2004 is transferred to fiscal year 2005 for use 80830  
 under the same appropriation item. 80831

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND 80832

The foregoing appropriation item 070-406, Uniform Accounting 80833  
 Network/Technology Improvements Fund, shall be used to pay the 80834

costs of developing and implementing the Uniform Accounting 80835  
 Network and technology improvements for the Office of the Auditor 80836  
 of State. The unencumbered balance of the appropriation at the end 80837  
 of fiscal year 2004 is transferred to fiscal year 2005 to pay the 80838  
 costs of developing and implementing the Uniform Accounting 80839  
 Network and technology improvements for the Office of the Auditor 80840  
 of State. 80841

**Section 22. BRB BOARD OF BARBER EXAMINERS 80842**

General Services Fund Group 80843  
 4K9 877-609 Operating Expenses \$ 535,853 \$ 555,037 80844  
 TOTAL GSF General Services Fund 80845  
 Group \$ 535,853 \$ 555,037 80846  
 TOTAL ALL BUDGET FUND GROUPS \$ 535,853 \$ 555,037 80847

**Section 23. OBM OFFICE OF BUDGET AND MANAGEMENT 80849**

General Revenue Fund 80850  
 GRF 042-321 Budget Development and \$ 3,092,469 \$ 2,405,243 80851  
 Implementation  
 GRF 042-409 Commission Closures \$ 95,000 \$ 0 80852  
 GRF 042-410 National Association \$ 27,089 \$ 27,902 80853  
 Dues  
 GRF 042-412 Audit of Auditor of \$ 62,110 \$ 55,760 80854  
 State  
 TOTAL GRF General Revenue Fund \$ 3,276,668 \$ 2,488,905 80855  
 General Services Fund Group 80856  
 105 042-603 State Accounting \$ 9,131,651 \$ 9,375,862 80857  
 TOTAL GSF General Services Fund \$ 9,131,651 \$ 9,375,862 80858  
 Group  
 State Special Revenue Fund Group 80859  
 5N4 042-602 OAKS Project \$ 2,062,875 \$ 2,069,125 80860  
 Implementation

TOTAL SSR State Special Revenue	\$	2,062,875	\$	2,069,125	80861
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,471,194	\$	13,933,892	80862
AUDIT COSTS					80863
Of the foregoing appropriation item 042-603, State					80864
Accounting, not more than \$400,000 in fiscal year 2004 and					80865
\$415,000 in fiscal year 2005 shall be used to pay for centralized					80866
audit costs associated with either Single Audit Schedules or					80867
financial statements prepared in conformance with generally					80868
accepted accounting principles for the state.					80869
<b>Section 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD</b>					80870
General Revenue Fund					80871
GRF 874-100 Personal Services	\$	2,031,400	\$	2,051,400	80872
GRF 874-320 Maintenance and	\$	1,022,262	\$	982,929	80873
Equipment					
TOTAL GRF General Revenue Fund	\$	3,053,662	\$	3,034,329	80874
General Services Fund Group					80875
4G5 874-603 Capitol Square	\$	15,000	\$	15,000	80876
Maintenance Expenses					
4S7 874-602 Statehouse Gift	\$	770,484	\$	770,484	80877
Shop/Events					
TOTAL GSF General Services					80878
Fund Group	\$	785,484	\$	785,484	80879
Underground Parking Garage					80880
208 874-601 Underground Parking	\$	2,996,801	\$	2,959,721	80881
Garage Operating					
TOTAL UPG Underground Parking					80882
Garage	\$	2,996,801	\$	2,959,721	80883
TOTAL ALL BUDGET FUND GROUPS	\$	6,835,947	\$	6,779,534	80884

**Section 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS** 80886

General Services Fund Group				80887
4K9 233-601 Operating Expenses	\$	404,025	\$ 431,525	80888
TOTAL GSF General Services Fund	\$	404,025	\$ 431,525	80889
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$ 431,525	80890

**Section 26.** CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 80892

General Services Fund Group				80893
4K9 930-609 Operating Expenses	\$	225,000	\$ 450,000	80894
TOTAL GSF General Services Fund	\$	225,000	\$ 450,000	80895
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$ 450,000	80896

Notwithstanding any other law to the contrary, upon 80897  
certification by the Director of Administrative Services, the 80898  
Director of Budget and Management may transfer cash in an amount 80899  
not to exceed the fiscal year 2004 appropriation from Fund 5P1 80900  
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 80901  
amount transferred is hereby appropriated. The cash shall be used 80902  
to pay expenses related to establishing the Chemical Dependency 80903  
Professionals Board, including, but not limited to, travel 80904  
reimbursement of board members. 80905

Upon completion of the transition of the Department of 80906  
Alcohol and Drug Addiction's certificates and credentials issuance 80907  
program to the Chemical Dependency Professionals Board, the 80908  
Director of Alcohol and Drug Addiction Services shall certify to 80909  
the Director of Budget and Management the remaining cash in Fund 80910  
5P1 (Credentialing Fund). The Director of Budget and Management 80911  
shall transfer the certified balance from Fund 5P1 to Fund 4K9 80912  
(Occupational Licensing). This transition shall be completed in 80913  
accordance with Section 5 of Am. Sub. H.B. 496 of the 124th 80914  
General Assembly. 80915

<b>Section 27.</b>	CHR STATE CHIROPRACTIC BOARD				80916
	General Services Fund Group				80917
	4K9 878-609 Operating Expenses	\$	591,724	\$	591,724 80918
	TOTAL GSF General Services Fund				80919
	Group	\$	591,724	\$	591,724 80920
	TOTAL ALL BUDGET FUND GROUPS	\$	591,724	\$	591,724 80921
<b>Section 28.</b>	CIV OHIO CIVIL RIGHTS COMMISSION				80923
	General Revenue Fund				80924
	GRF 876-100 Personal Services	\$	7,000,000	\$	7,000,000 80925
	GRF 876-200 Maintenance	\$	400,000	\$	400,000 80926
	GRF 876-300 Equipment	\$	91,298	\$	91,298 80927
	TOTAL GRF General Revenue Fund	\$	7,491,298	\$	7,491,298 80928
	Federal Special Revenue Fund Group				80929
	334 876-601 Federal Programs	\$	3,965,000	\$	3,790,000 80930
	TOTAL FED Federal Special Revenue				80931
	Fund Group	\$	3,965,000	\$	3,790,000 80932
	State Special Revenue Fund Group				80933
	217 876-604 General Reimbursement	\$	20,951	\$	20,951 80934
	TOTAL SSR State Special				80935
	Revenue Fund Group	\$	20,951	\$	20,951 80936
	TOTAL ALL BUDGET FUND GROUPS	\$	11,477,249	\$	11,302,249 80937
<b>Section 29.</b>	COM DEPARTMENT OF COMMERCE				80939
	General Revenue Fund				80940
	GRF 800-410 Labor and Worker	\$	3,700,040	\$	3,725,040 80941
	Safety				
	Total GRF General Revenue Fund	\$	3,700,040	\$	3,725,040 80942
	General Services Fund Group				80943
	163 800-620 Division of	\$	3,385,803	\$	3,490,056 80944

Administration					
163	800-637	Information Technology	\$ 2,753,299	\$ 2,772,924	80945
TOTAL GSF General Services Fund					80946
Group			\$ 6,139,102	\$ 6,262,980	80947
Federal Special Revenue Fund Group					80948
348	800-622	Underground Storage	\$ 195,008	\$ 195,008	80949
Tanks					
348	800-624	Leaking Underground	\$ 1,850,000	\$ 1,850,000	80950
Storage Tanks					
349	800-626	OSHA Enforcement	\$ 1,527,750	\$ 1,604,140	80951
TOTAL FED Federal Special Revenue					80952
Fund Group			\$ 3,572,758	\$ 3,649,148	80953
State Special Revenue Fund Group					80954
4B2	800-631	Real Estate Appraisal	\$ 60,000	\$ 60,000	80955
Recovery					
4H9	800-608	Cemeteries	\$ 273,465	\$ 273,465	80956
4X2	800-619	Financial Institutions	\$ 2,020,798	\$ 2,200,843	80957
5B9	800-632	PI & Security Guard	\$ 784,550	\$ 0	80958
Provider					
5K7	800-621	Penalty Enforcement	\$ 50,000	\$ 50,000	80959
543	800-602	Unclaimed	\$ 7,051,051	\$ 7,051,051	80960
Funds-Operating					
543	800-625	Unclaimed Funds-Claims	\$ 25,512,867	\$ 25,512,867	80961
544	800-612	Banks	\$ 6,657,997	\$ 6,657,997	80962
545	800-613	Savings Institutions	\$ 2,765,618	\$ 2,894,330	80963
546	800-610	Fire Marshal	\$ 3,868,918	\$ 0	80964
547	800-603	Real Estate	\$ 250,000	\$ 250,000	80965
Education/Research					
548	800-611	Real Estate Recovery	\$ 100,000	\$ 100,000	80966
549	800-614	Real Estate	\$ 3,586,754	\$ 3,705,892	80967
550	800-617	Securities	\$ 4,600,000	\$ 4,800,000	80968
552	800-604	Credit Union	\$ 2,613,356	\$ 2,751,852	80969

553	800-607	Consumer Finance	\$	3,764,279	\$	3,735,445	80970
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257	80971
6A4	800-630	Real Estate	\$	658,506	\$	664,006	80972
		Appraiser-Operating					
653	800-629	UST	\$	1,353,632	\$	1,249,632	80973
		Registration/Permit					
		Fee					
TOTAL SSR State Special Revenue							80974
	Fund Group		\$	90,599,478	\$	86,994,637	80975
	Liquor Control Fund Group						80976
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432	80977
043	800-627	Liquor Control	\$	17,248,488	\$	15,981,346	80978
		Operating					
043	800-633	Economic Development	\$	23,277,500	\$	29,029,500	80979
		Debt Service					
043	800-636	Revitalization Debt	\$	4,747,800	\$	9,736,300	80980
		Service					
TOTAL LCF Liquor Control							80981
	Fund Group		\$	386,353,342	\$	408,639,578	80982
TOTAL ALL BUDGET FUND GROUPS							80983
	LABOR AND WORKER SAFETY						80984
	The Department of Commerce may designate a portion of						80985
	appropriation item 800-410, Labor and Worker Safety, to be used to						80986
	match federal funding for the OSHA on-site consultation program.						80987
	PENALTY ENFORCEMENT						80988
	The foregoing appropriation item 800-621, Penalty						80989
	Enforcement, shall be used to enforce sections 4115.03 to 4115.16						80990
	of the Revised Code.						80991
	UNCLAIMED FUNDS PAYMENTS						80992
	The foregoing appropriation item 800-625, Unclaimed						80993
	Funds-Claims, shall be used to pay claims pursuant to section						80994

169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

BANKS FUND (FUND 544) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$2,000,000 cash from the Banks Fund (Fund 544) to the General Revenue Fund.

FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$10,000,000 cash from the Fire Marshal Fund (Fund 546) to the General Revenue Fund.

REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Real Estate Fund (Fund 549) to the General Revenue Fund.

INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Industrial Compliance Fund (Fund 556), to the General Revenue Fund.

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING

The foregoing appropriation item 800-601, Merchandising, shall be used pursuant to section 4301.12 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

ECONOMIC DEVELOPMENT DEBT SERVICE

The foregoing appropriation item 800-633, Economic Development Debt Service, 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, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. The General Assembly acknowledges that an appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800-636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2003, to June 30, 2005. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, Fund 163, Division of Administration, shall receive assessments from all operating funds of the department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

**Section 30.** OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group				81050	
5F5 053-601 Operating Expenses	\$	9,277,519	\$	9,277,519	81051
TOTAL GSF General Services Fund Group	\$	9,277,519	\$	9,277,519	81052



SOUTHERN OHIO CORRECTIONAL FACILITY COST	81082
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.	81083 81084 81085 81086 81087 81088
DISASTER SERVICES	81089
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.	81090 81091 81092 81093 81094 81095 81096 81097 81098 81099 81100 81101
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:	81102 81103 81104 81105 81106
(A) The southern Ohio flooding, referred to as FEMA-DR-1164-OH;	81107 81108
(B) The flood/storm disaster referred to as FEMA-DR-1227-OH;	81109
(C) The Southern Ohio flooding, referred to as FEMA-DR-1321-OH;	81110 81111

(D) The flooding referred to as FEMA-DR-1339-OH;	81112
(E) The tornado/storms referred to as FEMA-DR-1343-OH;	81113
(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.	81114 81115 81116
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.	81117 81118 81119
MANDATE ASSISTANCE	81120
(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:	81121 81122 81123 81124
(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;	81125 81126 81127 81128
(2) The cost, primarily to small villages and townships, of providing firefighter training and equipment or gear;	81129 81130
(3) The cost to school districts of in-service training for child abuse detection.	81131 81132
(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.	81133 81134 81135 81136 81137 81138 81139 81140
ADMINISTERING	81141
ESTIMATED ANNUAL	

PROGRAM	AGENCY	AMOUNT	
			81142
Prosecution Costs	Office of Criminal Justice Services	\$146,500	81143 81144
Firefighter Training Costs	Department of Public Safety	\$731,000	81145
Child Abuse Detection Training Costs	Department of Education	\$585,000	81146

(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	81172
shall be carried out as follows:	81173
(1) PROSECUTION COSTS	81174
(a) Appropriations may be transferred to the Office of	81175
Criminal Justice Services to cover local prosecution costs for	81176
aggravated murder, murder, felonies of the first degree, and	81177
felonies of the second degree that occur on the grounds of	81178
institutions operated by the Department of Rehabilitation and	81179
Correction and the Department of Youth Services.	81180
(b) Upon a delinquency filing in juvenile court or the return	81181
of an indictment for aggravated murder, murder, or any felony of	81182
the first or second degree that was committed at a Department of	81183
Youth Services or a Department of Rehabilitation and Correction	81184
institution, the affected county may, in accordance with rules	81185
that the Office of Criminal Justice Services shall adopt, apply to	81186
the Office of Criminal Justice Services for a grant to cover all	81187
documented costs that are incurred by the county prosecutor's	81188
office.	81189
(c) Twice each year, the Office of Criminal Justice Services	81190
shall designate counties to receive grants from those counties	81191
that have submitted one or more applications in compliance with	81192
the rules that have been adopted by the Office of Criminal Justice	81193
Services for the receipt of such grants. In each year's first	81194
round of grant awards, if sufficient appropriations have been	81195
made, up to a total of \$100,000 may be awarded. In each year's	81196
second round of grant awards, the remaining appropriations	81197
available for this purpose may be awarded.	81198
(d) If for a given round of grants there are insufficient	81199
appropriations to make grant awards to all the eligible counties,	81200
the first priority shall be given to counties with cases involving	81201
aggravated murder and murder; second priority shall be given to	81202

cases involving a felony of the first degree; and third priority 81203  
shall be given to cases involving a felony of the second degree. 81204  
Within these priorities, the grant awards shall be based on the 81205  
order in which the applications were received, except that 81206  
applications for cases involving a felony of the first or second 81207  
degree shall not be considered in more than two consecutive rounds 81208  
of grant awards. 81209

(2) FIREFIGHTER TRAINING COSTS 81210

Appropriations may be transferred to the Department of Public 81211  
Safety for use as full or partial reimbursement to local units of 81212  
government and fire departments for the cost of firefighter 81213  
training and equipment or gear. In accordance with rules that the 81214  
department shall adopt, a local unit of government or fire 81215  
department may apply to the department for a grant to cover all 81216  
documented costs that are incurred to provide firefighter training 81217  
and equipment or gear. The department shall make grants within the 81218  
limits of the funding provided, with priority given to fire 81219  
departments that serve small villages and townships. 81220

(3) CHILD ABUSE DETECTION TRAINING COSTS 81221

Appropriations may be transferred to the Department of 81222  
Education for disbursement to local school districts as full or 81223  
partial reimbursement for the cost of providing in-service 81224  
training for child abuse detection. In accordance with rules that 81225  
the department shall adopt, a local school district may apply to 81226  
the department for a grant to cover all documented costs that are 81227  
incurred to provide in-service training for child abuse detection. 81228  
The department shall make grants within the limits of the funding 81229  
provided. 81230

(G) Any moneys allocated within appropriation item 911-404, 81231  
Mandate Assistance, not fully utilized may, upon application of 81232  
the Ohio Public Defender Commission, and with the approval of the 81233

Controlling Board, be disbursed to boards of county commissioners 81234  
to provide additional reimbursement for the costs incurred by 81235  
counties in providing defense to indigent defendants pursuant to 81236  
Chapter 120. of the Revised Code. 81237

The amount to be disbursed to each county shall be allocated 81238  
proportionately on the basis of the total amount of reimbursement 81239  
paid to each county as a percentage of the amount of reimbursement 81240  
paid to all of the counties during the most recent state fiscal 81241  
year for which data is available and as calculated by the Ohio 81242  
Public Defender Commission. 81243

**BALLOT ADVERTISING COSTS** 81244

Pursuant to requests submitted by the Ohio Ballot Board, the 81245  
Controlling Board shall approve transfers from the foregoing 81246  
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 81247  
Ballot Board appropriation item in order to reimburse county 81248  
boards of elections for the cost of public notices associated with 81249  
statewide ballot initiatives. 81250

Of the foregoing appropriation item 911-441, Ballot 81251  
Advertising Costs, the Director of Budget and Management shall 81252  
transfer any amounts that are not needed for the purpose of 81253  
reimbursing county boards of elections for the cost of public 81254  
notices associated with statewide ballot initiatives to 81255  
appropriation item 911-404, Mandate Assistance. 81256

**Section 32. COS STATE BOARD OF COSMETOLOGY** 81257

General Services Fund Group 81258  
4K9 879-609 Operating Expenses \$ 2,681,359 \$ 2,822,359 81259  
TOTAL GSF General Services Fund 81260  
Group \$ 2,681,359 \$ 2,822,359 81261  
TOTAL ALL BUDGET FUND GROUPS \$ 2,681,359 \$ 2,822,359 81262

**Section 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND** 81264

FAMILY THERAPIST BOARD				81265
General Services Fund Group				81266
4K9 899-609 Operating Expenses	\$	1,021,524	\$ 1,044,812	81267
TOTAL GSF General Services Fund				81268
Group	\$	1,021,524	\$ 1,044,812	81269
TOTAL ALL BUDGET FUND GROUPS	\$	1,021,524	\$ 1,044,812	81270

**Section 34. CLA COURT OF CLAIMS** 81272

General Revenue Fund				81273
GRF 015-321 Operating Expenses	\$	2,452,000	\$ 2,477,000	81274
TOTAL GRF General Revenue Fund	\$	2,452,000	\$ 2,477,000	81275
State Special Revenue Fund Group				81276
5K2 015-603 CLA Victims of Crime	\$	1,532,043	\$ 1,582,684	81277
TOTAL SSR State Special Revenue				81278
Fund Group	\$	1,532,043	\$ 1,582,684	81279
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$ 4,059,684	81280

**OFFICE SPACE RENTAL EXPENSES** 81281

Of the foregoing appropriation item 015-321, Operating 81282  
 Expenses, in fiscal year 2005, \$302,000 shall be for the purpose 81283  
 of paying fiscal year 2005 office space rental expenses. Upon 81284  
 approval of the Controlling Board, the Court of Claims may expend 81285  
 up to \$302,000 for the purpose of paying fiscal year 2005 office 81286  
 space rental expenses. 81287

**Section 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES** 81288

General Revenue Fund				81289
GRF 196-401 Criminal Justice	\$	534,570	\$ 520,503	81290
Information System				
GRF 196-403 Center for Violence	\$	20,000	\$ 20,000	81291
Prevention				
GRF 196-405 Violence Prevention	\$	707,076	\$ 688,469	81292

Subsidy

GRF 196-424 Operating Expenses	\$	1,431,371	\$	1,427,971	81293
TOTAL GRF General Revenue Fund	\$	2,693,017	\$	2,656,943	81294
General Services Fund Group					81295
4P6 196-601 General Services	\$	135,450	\$	86,500	81296
TOTAL GSF Services Fund Group	\$	135,450	\$	86,500	81297
Federal Special Revenue Fund Group					81298
3L5 196-604 Justice Program	\$	30,334,908	\$	30,311,870	81299
3U1 196-602 Criminal Justice	\$	1,000,000	\$	0	81300
Federal Programs					
3V8 196-605 Federal Program	\$	250,000	\$	0	81301
Purposes FFY 01					
TOTAL FED Federal Special Revenue	\$	31,584,908	\$	30,311,870	81302
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	34,413,375	\$	33,055,313	81303

INDIGENT DEFENSE 81304

The Office of Criminal Justice Services shall make all 81305  
efforts to maximize the amount of funding available for the 81306  
defense of indigent persons. 81307

CRIMINAL JUSTICE INFORMATION SYSTEM 81308

The foregoing appropriation item 196-401, Criminal Justice 81309  
Information System, shall be used by the Office of Criminal 81310  
Justice Services to work on a plan to improve Ohio's criminal 81311  
justice information systems. The Director of Criminal Justice 81312  
Services shall evaluate the progress of this plan and issue a 81313  
report to the Governor, the Speaker and the Minority Leader of the 81314  
House of Representatives, the President and the Minority Leader of 81315  
the Senate, the Criminal Justice Policy Board, and the Legislative 81316  
Service Commission by the first day of January of each year of the 81317  
two-year biennium beginning July 1, 2003, and ending June 30, 81318  
2005. 81319

VIOLENCE PREVENTION SUBSIDY	81320
Of the foregoing appropriation item 196-405, Violence	81321
Prevention Subsidy, \$60,000 in fiscal year 2004 shall be used for	81322
Montgomery County's STVM Safe House Domestic Transitional Housing.	81323
OPERATING EXPENSES	81324
Of the foregoing appropriation item 196-424, Operating	81325
Expenses, up to \$650,000 in each fiscal year shall be used for the	81326
purpose of matching federal funds.	81327
JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT	81328
The foregoing appropriation item 196-602, Criminal Justice	81329
Federal Programs, shall be used to fund and close out the Juvenile	81330
Accountability Incentive Block Grant Program for federal fiscal	81331
year 1999.	81332
<b>Section 36. DEN STATE DENTAL BOARD</b>	81333
General Services Fund Group	81334
4K9 880-609 Operating Expenses \$ 1,324,456 \$ 1,346,656	81335
TOTAL GSF General Services Fund	81336
Group \$ 1,324,456 \$ 1,346,656	81337
TOTAL ALL BUDGET FUND GROUPS \$ 1,324,456 \$ 1,346,656	81338
<b>Section 37. BDP BOARD OF DEPOSIT</b>	81340
General Services Fund Group	81341
4M2 974-601 Board of Deposit \$ 1,676,000 \$ 1,676,000	81342
TOTAL GSF General Services Fund	81343
Group \$ 1,676,000 \$ 1,676,000	81344
TOTAL ALL BUDGET FUND GROUPS \$ 1,676,000 \$ 1,676,000	81345
BOARD OF DEPOSIT EXPENSE FUND	81346
Upon receiving certification of expenses from the Treasurer	81347
of State, the Director of Budget and Management shall transfer	81348

cash from the Investment Earnings Redistribution Fund (Fund 608) 81349  
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 81350  
shall be used to pay for banking charges and fees required for the 81351  
operation of the State of Ohio Regular Account. 81352

**Section 38. DEV DEPARTMENT OF DEVELOPMENT** 81353

General Revenue Fund 81354

GRF 195-321 Operating Expenses \$ 2,695,236 \$ 3,020,115 81355

GRF 195-401 Thomas Edison Program \$ 16,634,934 \$ 17,334,934 81356

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 81357

Development

GRF 195-405 Minority Business \$ 1,620,755 \$ 1,669,378 81358

Development Division

GRF 195-407 Travel and Tourism \$ 6,049,345 \$ 7,049,345 81359

GRF 195-408 Coal Research \$ 588,041 \$ 599,802 81360

Development

GRF 195-410 Defense Conversion \$ 2,500,000 \$ 0 81361

Assistance

GRF 195-412 Business Development \$ 9,750,000 \$ 10,500,000 81362

Grants

GRF 195-414 First Frontier Match \$ 389,987 \$ 389,987 81363

GRF 195-415 Economic Development \$ 6,394,975 \$ 6,394,975 81364

Division and Regional

Offices

GRF 195-416 Governor's Office of \$ 4,372,324 \$ 4,372,324 81365

Appalachia

GRF 195-417 Urban/Rural Initiative \$ 589,390 \$ 589,390 81366

GRF 195-422 Third Frontier Action \$ 18,000,000 \$ 20,685,000 81367

Fund

GRF 195-426 Clean Ohio \$ 518,730 \$ 518,730 81368

Administration

GRF 195-432 International Trade \$ 4,492,713 \$ 4,492,713 81369

GRF 195-433 State Marketing \$ 500,000 \$ 750,000 81370

	Program				
GRF 195-434	Investment in Training	\$ 12,227,500	\$ 12,227,500		81371
	Grants				
GRF 195-436	Labor/Management	\$ 811,869	\$ 811,869		81372
	Cooperation				
GRF 195-497	CDBG Operating Match	\$ 1,107,400	\$ 1,107,400		81373
GRF 195-498	State Energy Match	\$ 100,000	\$ 100,000		81374
GRF 195-501	Appalachian Local	\$ 380,080	\$ 380,080		81375
	Development Districts				
GRF 195-502	Appalachian Regional	\$ 238,274	\$ 246,803		81376
	Commission Dues				
GRF 195-507	Travel and Tourism	\$ 1,025,000	\$ 1,025,000		81377
	Grants				
GRF 195-515	Economic Development	\$ 10,000,000	\$ 10,000,000		81378
	Contingency				
GRF 195-516	Shovel Ready Sites	\$ 2,500,000	\$ 2,500,000		81379
GRF 195-905	Third Frontier	\$ 0	\$ 7,360,000		81380
	Research &				
	Commercialization				
	General Obligation				
	Debt Service				
GRF 195-906	Coal	\$ 7,231,200	\$ 9,185,100		81381
	Research/Development				
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$ 112,458,475	\$ 125,051,167		81382
	General Services Fund Group				81383
135 195-605	Supportive Services	\$ 7,417,068	\$ 7,539,686		81384
136 195-621	International Trade	\$ 24,915	\$ 24,915		81385
685 195-636	General Reimbursements	\$ 1,316,012	\$ 1,232,530		81386
TOTAL GSF	General Services Fund				81387
Group		\$ 8,757,995	\$ 8,797,131		81388

Federal Special Revenue Fund Group				81389
3K8	195-613	Community Development	\$ 65,000,000 \$ 65,000,000	81390
		Block Grant		
3K9	195-611	Home Energy Assistance	\$ 85,036,000 \$ 85,036,000	81391
		Block Grant		
3K9	195-614	HEAP Weatherization	\$ 16,219,479 \$ 16,219,479	81392
3L0	195-612	Community Services	\$ 25,235,000 \$ 25,235,000	81393
		Block Grant		
3V1	195-601	HOME Program	\$ 40,000,000 \$ 40,000,000	81394
308	195-602	Appalachian Regional	\$ 350,200 \$ 350,200	81395
		Commission		
308	195-603	Housing and Urban	\$ 5,000,000 \$ 5,000,000	81396
		Development		
308	195-605	Federal Projects	\$ 15,300,248 \$ 15,300,248	81397
308	195-609	Small Business	\$ 4,196,381 \$ 4,296,381	81398
		Administration		
308	195-618	Energy Federal Grants	\$ 3,397,659 \$ 3,397,659	81399
335	195-610	Oil Overcharge	\$ 8,500,000 \$ 8,500,000	81400
380	195-622	Housing Development	\$ 5,606,080 \$ 5,667,627	81401
		Operating		
TOTAL FED Federal Special Revenue				81402
Fund Group				\$ 273,841,047 \$ 274,002,594 81403
State Special Revenue Fund Group				81404
4F2	195-639	State Special Projects	\$ 540,183 \$ 290,183	81405
4H4	195-641	First Frontier	\$ 500,000 \$ 500,000	81406
4S0	195-630	Enterprise Zone	\$ 211,900 \$ 211,900	81407
		Operating		
4S1	195-634	Job Creation Tax	\$ 375,800 \$ 375,800	81408
		Credit Operating		
4W1	195-646	Minority Business	\$ 2,580,597 \$ 2,580,597	81409
		Enterprise Loan		
444	195-607	Water and Sewer	\$ 523,775 \$ 523,775	81410

		Commission Loans					
445	195-617	Housing Finance	\$	5,040,843	\$	4,983,738	81411
		Operating					
450	195-624	Minority Business	\$	13,563	\$	13,563	81412
		Bonding Program					
		Administration					
451	195-625	Economic Development	\$	2,358,310	\$	2,358,310	81413
		Financing Operating					
5M4	195-659	Universal Service	\$	170,000,000	\$	170,000,000	81414
5M5	195-660	Energy Efficiency	\$	12,000,000	\$	12,000,000	81415
		Revolving Loan					
611	195-631	Water and Sewer	\$	15,713	\$	15,713	81416
		Administration					
617	195-654	Volume Cap	\$	200,000	\$	200,000	81417
		Administration					
646	195-638	Low and Moderate	\$	40,000,000	\$	40,000,000	81418
		Income Housing Trust					
		Fund					
TOTAL SSR		State Special Revenue					81419
Fund Group			\$	234,360,684	\$	234,053,579	81420
Facilities Establishment		Fund Group					81421
037	195-615	Facilities	\$	63,931,149	\$	63,931,149	81422
		Establishment					
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000	81423
		Loan					
5D2	195-650	Urban Redevelopment	\$	10,475,000	\$	10,475,000	81424
		Loans					
5H1	195-652	Family Farm Loan	\$	1,500,000	\$	1,500,000	81425
		Guarantee					
5S8	195-627	Rural Development	\$	5,000,000	\$	5,000,000	81426
		Initiative					
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000	81427
		Program					

TOTAL 037 Facilities				81428	
Establishment Fund Group	\$	88,906,149	\$	88,906,149	81429
Clean Ohio Revitalization Fund				81430	
003 195-663 Clean Ohio Operating	\$	150,000	\$	150,000	81431
TOTAL 003 Clean Ohio Revitalization Fund	\$	150,000	\$	150,000	81432
Coal Research/Development Fund				81433	
046 195-632 Coal Research & Development Fund	\$	13,168,357	\$	13,168,357	81434
TOTAL 046 Coal Research/Development Fund	\$	13,168,357	\$	13,168,357	81435
TOTAL ALL BUDGET FUND GROUPS	\$	731,642,707	\$	744,128,977	81436

**Section 38.01.** THOMAS EDISON PROGRAM 81438

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. 81439  
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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. 81447  
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**Section 38.02.** SMALL BUSINESS DEVELOPMENT 81452

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. 81453  
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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	81487
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.	81488 81489 81490
<b>Section 38.03. OHIO PREPAREDNESS FOR BRAC-2005</b>	81491
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.	81492 81493 81494 81495 81496 81497 81498 81499 81500 81501 81502 81503
<b>Section 38.04. BUSINESS DEVELOPMENT</b>	81504
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.	81505 81506 81507 81508 81509 81510 81511 81512 81513 81514 81515
The department's primary goal shall be to award funds to	81516

political subdivisions of the state for off-site infrastructure 81517  
improvements. In order to meet the particular needs of economic 81518  
development in a region, the department may elect to award funds 81519  
directly to a business for on-site infrastructure improvements. 81520  
"Infrastructure improvements" mean improvements to water system 81521  
facilities, sewer and sewage treatment facilities, electric or gas 81522  
service facilities, fiber optic facilities, rail facilities, site 81523  
preparation, and parking facilities. The Director of Development 81524  
may recommend the funds be used in an alternative manner when 81525  
deemed appropriate to meet an extraordinary economic development 81526  
opportunity or need. 81527

The foregoing appropriation item 195-412, Business 81528  
Development Grants, may be expended only after the submission of a 81529  
request to the Controlling Board by the Department of Development 81530  
outlining the planned use of the funds, and the subsequent 81531  
approval of the request by the Controlling Board. 81532

The foregoing appropriation item 195-412, Business 81533  
Development Grants, may be used for, but is not limited to, 81534  
construction, rehabilitation, and acquisition projects for rail 81535  
freight assistance as requested by the Department of 81536  
Transportation. The Director of Transportation shall submit the 81537  
proposed projects to the Director of Development for an evaluation 81538  
of potential economic benefit. 81539

**Section 38.05. FIRST FRONTIER MATCH** 81540

The foregoing appropriation item 195-414, First Frontier 81541  
Match, shall be used as matching funds to targeted counties for 81542  
the purpose of marketing state, regional, and local 81543  
characteristics that may attract economic development. "Targeted 81544  
counties" mean counties that have a population of less than 81545  
175,000 residents. The appropriation may be used either for 81546  
marketing programs by individual targeted counties or for regional 81547

marketing campaigns that are marketing programs in which at least 81548  
one targeted county is participating with one or more other 81549  
targeted counties or larger counties. 81550

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES 81551

The foregoing appropriation item 195-415, Economic 81552  
Development Division and Regional Offices, shall be used for the 81553  
operating expenses of the Economic Development Division and the 81554  
regional economic development offices and for grants for 81555  
cooperative economic development ventures. 81556

Of the foregoing appropriation item 195-415, Economic 81557  
Development Division and Regional Offices, up to \$500,000 in 81558  
fiscal year 2004 shall be used to support the Ohio Broadband 81559  
Initiative. 81560

**Section 38.06.** GOVERNOR'S OFFICE OF APPALACHIA 81561

The foregoing appropriation item 195-416, Governor's Office 81562  
of Appalachia, shall be used for the administrative costs of 81563  
planning and liaison activities for the Governor's Office of 81564  
Appalachia. Funds not expended for planning and liaison activities 81565  
may be expended for special project grants within the Appalachian 81566  
Region. 81567

Of the foregoing appropriation item 195-416, Governor's 81568  
Office of Appalachia, up to \$250,000 each fiscal year shall be 81569  
used to match federal funds from the Appalachian Regional 81570  
Commission to provide job training to impact the Appalachian 81571  
Region. 81572

Of the foregoing appropriation item 195-416, Governor's 81573  
Office of Appalachia, up to \$4,372,324 in each fiscal year shall 81574  
be used in conjunction with other federal and state funds to 81575  
provide financial assistance to projects in Ohio's Appalachian 81576  
counties in order to further the goals of the Appalachian Regional 81577

Commission. Such projects and project sponsors shall meet 81578  
Appalachian Regional Commission eligibility requirements. Grants 81579  
shall be administered by the Department of Development. 81580

URBAN/RURAL INITIATIVE 81581

The foregoing appropriation item 195-417, Urban/Rural 81582  
Initiative, shall be used to make grants in accordance with 81583  
sections 122.19 to 122.22 of the Ohio Revised Code. 81584

**Section 38.07. THIRD FRONTIER ACTION FUND** 81585

The foregoing appropriation item 195-422, Third Frontier 81586  
Action Fund, shall be used to make grants in accordance with 81587  
sections 184.01 and 184.02 of the Revised Code. Prior to the 81588  
release of funds from appropriation item 195-422, Third Frontier 81589  
Action Fund, each grant award shall be recommended for funding by 81590  
the Third Frontier Commission and obtain approval from the 81591  
Controlling Board. 81592

Of the foregoing appropriation item 195-422, Third Frontier 81593  
Action Fund, not more than six per cent in each fiscal year shall 81594  
be used for operating expenditures in administering the program. 81595

In addition to the six per cent for operating expenditures, 81596  
an additional administrative amount, not to exceed \$1,500,000 81597  
within the biennium, shall be available for proposal evaluation, 81598  
research and analyses, and marketing efforts deemed necessary to 81599  
receive and disseminate information about science and 81600  
technology-related opportunities in the state. 81601

SCIENCE AND TECHNOLOGY COLLABORATION 81602

The Department of Development shall work in close 81603  
collaboration with the Board of Regents and the Third Frontier 81604  
Commission in relation to appropriation items and programs listed 81605  
in the following paragraph, and other technology-related 81606  
appropriations and programs in the Department of Development and 81607

the Board of Regents as those agencies may designate, to ensure 81608  
implementation of a coherent state strategy with respect to 81609  
science and technology. 81610

Each of the following appropriations and programs: 195-401, 81611  
Thomas Edison Program; 195-408, Coal Research Development; 81612  
195-422, Third Frontier Action Fund; 195-632, Coal Research and 81613  
Development Fund; 235-454, Research Challenge; 235-510, Ohio 81614  
Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, 81615  
Agricultural Research and Development Center; 235-553, Dayton Area 81616  
Graduate Studies Institute; 235-554, Computer Science Graduate 81617  
Education; 235-556, Ohio Academic Resources Network; and 195-435, 81618  
Biomedical Research and Technology Transfer Trust, shall be 81619  
reviewed annually by the Third Frontier Commission with respect to 81620  
its development of complementary relationships within a combined 81621  
state science and technology investment portfolio and its overall 81622  
contribution to the state's science and technology strategy, 81623  
including the adoption of appropriately consistent criteria for: 81624  
(1) the scientific merit of activities supported by the program; 81625  
(2) the relevance of the program's activities to commercial 81626  
opportunities in the private sector; (3) the private sector's 81627  
involvement in a process that continually evaluates commercial 81628  
opportunities to use the work supported by the program; and (4) 81629  
the ability of the program and recipients of grant funding from 81630  
the program to engage in activities that are collaborative, 81631  
complementary, and efficient with respect to the expenditure of 81632  
state funds. 81633

All programs listed in the preceding paragraph shall provide 81634  
annual reports to the Third Frontier Commission discussing 81635  
existing, planned, or possible collaborations between programs and 81636  
recipients of grant funding related to technology, development, 81637  
commercialization, and supporting Ohio's economic development. The 81638  
annual review by the Third Frontier Commission shall be a 81639

comprehensive review of the entire state science and technology 81640  
program portfolio rather than a review of individual programs. 81641

**Section 38.08. INTERNATIONAL TRADE** 81642

The foregoing appropriation item 195-432, International 81643  
Trade, shall be used to operate and to maintain Ohio's 81644  
out-of-state trade offices. 81645

The Director of Development may enter into contracts with 81646  
foreign nationals to staff foreign offices. Such contracts may be 81647  
paid in local currency or United States currency and shall be 81648  
exempt from the provisions of section 127.16 of the Revised Code. 81649  
The director also may establish foreign currency accounts in 81650  
accordance with section 122.05 of the Revised Code for the payment 81651  
of expenses related to the operation and maintenance of the 81652  
foreign trade offices. 81653

The foregoing appropriation item 195-432, International 81654  
Trade, shall be used to fund the International Trade Division and 81655  
to assist Ohio manufacturers and agricultural producers in 81656  
exporting to foreign countries in conjunction with the Department 81657  
of Agriculture. 81658

Of the foregoing appropriation item 195-432, International 81659  
Trade, up to \$35,000 may be used to purchase gifts for 81660  
representatives of foreign governments or dignitaries of foreign 81661  
countries. 81662

**Section 38.09. OHIO INVESTMENT IN TRAINING PROGRAM** 81663

The foregoing appropriation item 195-434, Investment in 81664  
Training Grants, shall be used to promote training through grants 81665  
for the reimbursement of eligible training expenses. 81666

**Section 38.10. CDBG OPERATING MATCH** 81667

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.	81698
<b>Section 38.11a. SHOVEL READY SITES</b>	81699
The foregoing appropriation item 195-516, Shovel Ready Sites,	81700
shall be used for the Shovel Ready Sites Program.	81701
The Director of Development shall contract for pilot projects	81702
with three port authorities, two of which shall be from urban	81703
counties with populations of at least 200,000 but not more than	81704
600,000 residents, and one of which shall be from a rural county.	81705
The appropriation shall be used to leverage federal funds, local	81706
funds, or both, to provide grants for the preparation of sites for	81707
immediate construction for infrastructure in the state.	81708
<b>Section 38.12. THIRD FRONTIER RESEARCH &amp; COMMERCIALIZATION</b>	81709
GENERAL OBLIGATION DEBT SERVICE	81710
The foregoing appropriation item 195-905, Third Frontier	81711
Research & Commercialization General Obligation Debt Service,	81712
shall be used to pay all debt service and related financing costs	81713
during the period from July 1, 2003, to June 30, 2005, on	81714
obligations to be issued for research and development purposes	81715
under Section 2p of Article VIII, Ohio Constitution, and	81716
implementing legislation. The Office of the Sinking Fund or the	81717
Director of Budget and Management shall effectuate the required	81718
payments by an intrastate transfer voucher.	81719
COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	81720
The foregoing appropriation item 195-906, Coal	81721
Research/Development General Obligation Debt Service, shall be	81722
used to pay all debt service and related financing costs at the	81723
times they are required to be made under sections 151.01 and	81724
151.07 of the Revised Code during the period from July 1, 2003, to	81725
June 30, 2005. The Commissioners of the Sinking Fund or the	81726
Director of Budget and Management shall effectuate the required	81727

payments by an intrastate transfer voucher. 81728

**Section 38.13. SUPPORTIVE SERVICES** 81729

The Director of Development may assess divisions of the 81730  
department for the cost of central service operations. Such an 81731  
assessment shall be based on a plan submitted to and approved by 81732  
the Office of Budget and Management by the first day of August of 81733  
each fiscal year, and contain the characteristics of 81734  
administrative ease and uniform application. 81735

A division's payments shall be credited to the Supportive 81736  
Services Fund (Fund 135) using an intrastate transfer voucher. 81737

**GENERAL REIMBURSEMENT** 81738

The foregoing appropriation item 195-636, General 81739  
Reimbursements, shall be used for conference and subscription fees 81740  
and other reimbursable costs. Revenues to the General 81741  
Reimbursement Fund (Fund 685) shall consist of fees and other 81742  
moneys charged for conferences, subscriptions, and other 81743  
administrative costs that are not central service costs. 81744

**Section 38.13a. TRAINING SERVICES** 81745

Of the foregoing appropriation item 195-605, Federal 81746  
Projects, \$400,000 in each fiscal year shall be used for grants to 81747  
the Ohio Weatherization Training Center, administered by the 81748  
Corporation for Ohio Appalachian Development, for training and 81749  
technical assistance services. 81750

**Section 38.14. HEAP WEATHERIZATION** 81751

Fifteen per cent of the federal funds received by the state 81752  
for the Home Energy Assistance Block Grant shall be deposited in 81753  
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 81754  
shall be used to provide home weatherization services in the 81755

state.	81756
Of the foregoing appropriation item 195-614, HEAP	81757
Weatherization, \$200,000 in each fiscal year shall be used for	81758
grants to the Ohio Weatherization Training Center, administered by	81759
the Corporation for Ohio Appalachian Development, for training and	81760
technical assistance services.	81761
STATE SPECIAL PROJECTS	81762
The foregoing appropriation item 195-639, State Special	81763
Projects, shall be used as a general account for the deposit of	81764
private-sector funds from utility companies and other	81765
miscellaneous state funds. Private-sector moneys shall be used to	81766
(1) pay the expenses of verifying the income-eligibility of HEAP	81767
applicants, (2) market economic development opportunities in the	81768
state, and (3) leverage additional federal funds. State funds	81769
shall be used to match federal housing grants for the homeless.	81770
<b>Section 38.15. MINORITY BUSINESS ENTERPRISE LOAN</b>	81771
All repayments from the Minority Development Financing	81772
Advisory Board loan program and the Ohio Mini-Loan Guarantee	81773
Program shall be deposited in the State Treasury to the credit of	81774
the Minority Business Enterprise Loan Fund (Fund 4W1).	81775
All operating costs of administering the Minority Business	81776
Enterprise Loan Fund shall be paid from the Minority Business	81777
Enterprise Loan Fund (Fund 4WI).	81778
MINORITY BUSINESS BONDING FUND	81779
Notwithstanding Chapters 122., 169., and 175. of the Revised	81780
Code and other provisions of Am. Sub. H.B. 283 of the 123rd	81781
General Assembly, the Director of Development may, upon the	81782
recommendation of the Minority Development Financing Advisory	81783
Board, pledge up to \$10,000,000 in the 2003-2005 biennium of	81784
unclaimed funds administered by the Director of Commerce and	81785

allocated to the Minority Business Bonding Program pursuant to 81786  
section 169.05 of the Revised Code. The transfer of any cash by 81787  
the Director of Budget and Management from the Department of 81788  
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 81789  
Development's Minority Business Bonding Fund (Fund 449) shall 81790  
occur, if requested by the Director of Development, only if such 81791  
funds are needed for payment of losses arising from the Minority 81792  
Business Bonding Program, and only after proceeds of the initial 81793  
transfer of \$2,700,000 by the Controlling Board to the Minority 81794  
Business Bonding Program has been used for that purpose. Moneys 81795  
transferred by the Director of Budget and Management from the 81796  
Department of Commerce for this purpose may be moneys in custodial 81797  
funds held by the Treasurer of State. If expenditures are required 81798  
for payment of losses arising from the Minority Business Bonding 81799  
Program, such expenditures shall be made from appropriation item 81800  
195-623, Minority Business Bonding Contingency in the Minority 81801  
Business Bonding Fund, and such amounts are appropriated. 81802

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION 81803

Investment earnings of the Minority Business Bonding Fund 81804  
(Fund 449) shall be credited to the Minority Business Bonding 81805  
Program Administration Fund (Fund 450). 81806

**Section 38.16. ECONOMIC DEVELOPMENT FINANCING OPERATING** 81807

The foregoing appropriation item 195-625, Economic 81808  
Development Financing Operating, shall be used for the operating 81809  
expenses of financial assistance programs authorized under Chapter 81810  
166. of the Revised Code and under sections 122.43 and 122.45 of 81811  
the Revised Code. 81812

VOLUME CAP ADMINISTRATION 81813

The foregoing appropriation item 195-654, Volume Cap 81814  
Administration, shall be used for expenses related to the 81815

administration of the Volume Cap Program. Revenues received by the 81816  
Volume Cap Administration Fund (Fund 617) shall consist of 81817  
application fees, forfeited deposits, and interest earned from the 81818  
custodial account held by the Treasurer of State. 81819

UNIVERSAL SERVICE FUND 81820

The foregoing appropriation item 195-659, Universal Service, 81821  
shall be used to provide payments to regulated electric utility 81822  
companies for low-income customers enrolled in Percentage of 81823  
Income Payment Plan (PIPP) electric accounts, to fund targeted 81824  
energy efficiency and customer education services to PIPP 81825  
customers, and to cover the department's administrative costs 81826  
related to the Universal Service Fund Programs. 81827

ENERGY EFFICIENCY REVOLVING LOAN FUND 81828

The foregoing appropriation item 195-660, Energy Efficiency 81829  
Revolving Loan, shall be used to provide financial assistance to 81830  
customers for eligible energy efficiency projects for residential, 81831  
commercial and industrial business, local government, educational 81832  
institution, nonprofit, and agriculture customers, and to pay for 81833  
the program's administrative costs as provided in the Revised Code 81834  
and rules adopted by the Director of Development. 81835

**Section 38.17.** FACILITIES ESTABLISHMENT FUND 81836

The foregoing appropriation item 195-615, Facilities 81837  
Establishment (Fund 037), shall be used for the purposes of the 81838  
Facilities Establishment Fund under Chapter 166. of the Revised 81839  
Code. 81840

Notwithstanding Chapter 166. of the Revised Code, up to 81841  
\$1,800,000 in cash per fiscal year may be transferred from the 81842  
Facilities Establishment Fund (Fund 037) to the Economic 81843  
Development Financing Operating Fund (Fund 451). The transfer is 81844  
subject to Controlling Board approval pursuant to division (B) of 81845

section 166.03 of the Revised Code. 81846

Notwithstanding Chapter 166. of the Revised Code, up to 81847  
\$20,475,000 in cash may be transferred during the biennium from 81848  
the Facilities Establishment Fund (Fund 037) to the Urban 81849  
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 81850  
barriers to urban core redevelopment. The Director of Development 81851  
shall develop program guidelines for the transfer and release of 81852  
funds, including, but not limited to, the completion of all 81853  
appropriate environmental assessments before state assistance is 81854  
committed to a project. 81855

Notwithstanding Chapter 166. of the Revised Code, up to 81856  
\$5,000,000 per fiscal year in cash may be transferred from the 81857  
Facilities Establishment Fund (Fund 037) to the Rural Industrial 81858  
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 81859  
Board approval pursuant to section 166.03 of the Revised Code. 81860

FAMILY FARM LOAN PROGRAM 81861

Notwithstanding Chapter 166. of the Revised Code, up to 81862  
\$1,500,000 in each fiscal year shall be transferred from moneys in 81863  
the Facilities Establishment Fund (Fund 037) to the Family Farm 81864  
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 81865  
These moneys shall be used for loan guarantees. The transfer is 81866  
subject to Controlling Board approval. 81867

Financial assistance from the Family Farm Loan Guarantee Fund 81868  
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 81869  
in accordance with sections 166.031, 901.80, 901.81, 901.82, and 81870  
901.83 of the Revised Code. 81871

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 81872  
exist, all outstanding balances, all loan repayments, and any 81873  
other outstanding obligations shall revert to the Facilities 81874  
Establishment Fund (Fund 037). 81875

RURAL DEVELOPMENT INITIATIVE FUND 81876

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall 81877  
receive moneys from the Facilities Establishment Fund (Fund 037). 81878  
The Director of Development may make grants from the Rural 81879  
Development Initiative Fund as specified in division (A)(2) of 81880  
this section to eligible applicants in Appalachian counties and in 81881  
rural counties in the state that are designated as distressed 81882  
pursuant to section 122.25 of the Revised Code. Preference shall 81883  
be given to eligible applicants located in Appalachian counties 81884  
designated as distressed by the federal Appalachian Regional 81885  
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 81886  
cease to exist after June 30, 2007. All moneys remaining in the 81887  
Fund after that date shall revert to the Facilities Establishment 81888  
Fund (Fund 037). 81889

(2) The Director of Development shall make grants from the 81890  
Rural Development Initiative Fund (Fund 5S8) only to eligible 81891  
applicants who also qualify for and receive funding under the 81892  
Rural Industrial Park Loan Program as specified in sections 122.23 81893  
to 122.27 of the Revised Code. Eligible applicants shall use the 81894  
grants for the purposes specified in section 122.24 of the Revised 81895  
Code. All projects supported by grants from the fund are subject 81896  
to Chapter 4115. of the Revised Code as specified in division (E) 81897  
of section 166.02 of the Revised Code. The Director shall develop 81898  
program guidelines for the transfer and release of funds. The 81899  
release of grant moneys to an eligible applicant is subject to 81900  
Controlling Board approval. 81901

(B) Notwithstanding Chapter 166. of the Revised Code, the 81902  
Director of Budget and Management may transfer up to \$5,000,000 81903  
per fiscal year in cash on an as needed basis at the request of 81904  
the Director of Development from the Facilities Establishment Fund 81905  
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 81906  
The transfer is subject to Controlling Board approval pursuant to 81907  
section 166.03 of the Revised Code. 81908

CAPITAL ACCESS LOAN PROGRAM 81909

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. 81910  
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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. 81916  
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**Section 38.18. CLEAN OHIO OPERATING EXPENSES** 81923

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. 81924  
81925  
81926

**Section 39. OBD OHIO BOARD OF DIETETICS** 81927

General Services Fund Group				81928
4K9 860-609 Operating Expenses	\$	334,917	\$ 329,687	81929
TOTAL GSF General Services Fund Group				81930
Group	\$	334,917	\$ 329,687	81931
TOTAL ALL BUDGET FUND GROUPS	\$	334,917	\$ 329,687	81932

**Section 40. EDU DEPARTMENT OF EDUCATION** 81934

General Revenue Fund				81935
GRF 200-100 Personal Services	\$	11,110,190	\$ 11,332,393	81936
GRF 200-320 Maintenance and	\$	5,066,249	\$ 5,066,249	81937

		Equipment				
GRF	200-408	Public Preschool	\$	19,018,551	\$	19,018,551 81938
GRF	200-410	Professional	\$	32,490,073	\$	33,440,073 81939
		Development				
GRF	200-411	Family and Children	\$	3,324,750	\$	3,324,750 81940
		First				
GRF	200-416	Career-Technical	\$	2,322,195	\$	2,322,195 81941
		Education Match				
GRF	200-420	Technical Systems	\$	5,703,750	\$	5,703,750 81942
		Development				
GRF	200-421	Alternative Education	\$	16,135,547	\$	16,135,547 81943
		Programs				
GRF	200-422	School Management	\$	1,778,000	\$	1,778,000 81944
		Assistance				
GRF	200-424	Policy Analysis	\$	592,220	\$	592,220 81945
GRF	200-425	Tech Prep Consortia	\$	2,133,213	\$	2,133,213 81946
		Support				
GRF	200-426	Ohio Educational	\$	34,331,741	\$	34,331,741 81947
		Computer Network				
GRF	200-427	Academic Standards	\$	9,000,592	\$	9,000,592 81948
GRF	200-431	School Improvement	\$	10,905,625	\$	10,905,625 81949
		Initiatives				
GRF	200-432	School Conflict	\$	583,010	\$	583,010 81950
		Management				
GRF	200-433	Reading/Writing/Math	\$	20,488,264	\$	20,488,264 81951
		Improvement				
GRF	200-437	Student Assessment	\$	41,353,391	\$	45,953,391 81952
GRF	200-439	Accountability/Report	\$	4,087,500	\$	4,087,500 81953
		Cards				
GRF	200-441	American Sign Language	\$	207,717	\$	207,717 81954
GRF	200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633 81955
GRF	200-445	OhioReads	\$	4,500,000	\$	4,500,000 81956
		Admin/Volunteer				

		Support				
GRF	200-446	Education Management	\$	18,678,969	\$	18,678,969 81957
		Information System				
GRF	200-447	GED Testing/Adult High	\$	1,829,106	\$	1,829,106 81958
		School				
GRF	200-448	Educator Preparation	\$	24,375	\$	24,375 81959
GRF	200-449	Head Start/Head Start	\$	11,000,000	\$	5,000,000 81960
		Plus Start Up				
GRF	200-452	Teaching Success	\$	1,650,000	\$	1,650,000 81961
		Commission Initiatives				
GRF	200-455	Community Schools	\$	4,231,842	\$	4,231,842 81962
GRF	200-500	School Finance Equity	\$	13,888,641	\$	7,671,853 81963
GRF	200-501	Base Cost Funding	\$	4,441,761,256	\$	4,494,729,879 81964
GRF	200-502	Pupil Transportation	\$	388,939,229	\$	397,960,398 81965
GRF	200-503	Bus Purchase Allowance	\$	34,399,921	\$	34,399,921 81966
GRF	200-505	School Lunch Match	\$	8,998,025	\$	8,998,025 81967
GRF	200-509	Adult Literacy	\$	8,774,250	\$	8,774,250 81968
		Education				
GRF	200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356 81969
GRF	200-513	Student Intervention	\$	38,890,815	\$	41,090,815 81970
		Services				
GRF	200-514	Postsecondary Adult	\$	19,919,464	\$	19,919,464 81971
		Career-Technical				
		Education				
GRF	200-520	Disadvantaged Pupil	\$	367,266,738	\$	367,266,738 81972
		Impact Aid				
GRF	200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031 81973
GRF	200-525	Parity Aid	\$	333,890,279	\$	448,820,387 81974
GRF	200-532	Nonpublic	\$	55,803,103	\$	55,803,103 81975
		Administrative Cost				
		Reimbursement				
GRF	200-540	Special Education	\$	137,214,484	\$	139,536,046 81976
		Enhancements				

GRF 200-545	Career-Technical Education Enhancements	\$ 14,572,907	\$ 14,572,907	81977
GRF 200-546	Charge-Off Supplement	\$ 45,888,802	\$ 45,888,802	81978
GRF 200-558	Emergency Loan Interest Subsidy	\$ 3,022,500	\$ 2,300,000	81979
GRF 200-566	OhioReads Grants	\$ 17,125,223	\$ 17,167,728	81980
GRF 200-578	Safe and Supportive Schools	\$ 3,576,348	\$ 3,576,348	81981
GRF 200-901	Property Tax Allocation - Education	\$ 783,350,000	\$ 822,360,000	81982
GRF 200-906	Tangible Tax Exemption - Education	\$ 70,710,000	\$ 67,710,000	81983
TOTAL GRF	General Revenue Fund	\$ 7,228,028,875	\$ 7,438,355,757	81984
	General Services Fund Group			81985
138 200-606	Computer Services	\$ 7,404,690	\$ 7,635,949	81986
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 347,000	\$ 347,000	81987
4L2 200-681	Teacher Certification and Licensure	\$ 5,038,017	\$ 5,236,517	81988
452 200-638	Miscellaneous Revenue	\$ 500,000	\$ 500,000	81989
5B1 200-651	Child Nutrition Services	\$ 800,000	\$ 800,000	81990
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000	81991
596 200-656	Ohio Career Information System	\$ 516,694	\$ 529,761	81992
TOTAL GSF	General Services Fund Group	\$ 32,606,401	\$ 33,049,227	81993 81994
	Federal Special Revenue Fund Group			81995
3C5 200-661	Early Childhood Education	\$ 21,508,746	\$ 21,508,746	81996

3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966	81997
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500	81998
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	81999
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	82000
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	82001
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	82002
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	82003
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	82004
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	82005
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	82006
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	82007
3S6	200-698	Dispute Resolution-Federal	\$	140,000	\$	140,000	82008
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	82009
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	82010
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	82011
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	82012
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737	82013
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031	82014
309	200-601	Educationally Disadvantaged	\$	22,148,769	\$	22,899,001	82015
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820	82016
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631	82017
368	200-614	Veterans' Training	\$	626,630	\$	655,587	82018

369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672	82019
		Federal Enhancement					
370	200-624	Education of	\$	1,933,910	\$	1,933,910	82020
		Exceptional Children					
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370	82021
TOTAL FED Federal Special							82022
Revenue Fund Group			\$	1,320,704,193	\$	1,414,331,626	82023
State Special Revenue Fund Group							82024
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400	82025
4V7	200-633	Interagency Support	\$	800,000	\$	800,000	82026
454	200-610	Guidance and Testing	\$	956,761	\$	956,761	82027
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624	82028
5U2	200-685	National Education	\$	200,000	\$	200,000	82029
		Statistics					
5W2	200-663	Head Start Plus/Head	\$	57,170,000	\$	110,184,000	82030
		Start					
5X8	200-453	Jobs for Ohio	\$	1,750,000	\$	1,750,000	82031
		Graduates Program					
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	82032
		Reimbursement					
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000	82033
TOTAL SSR State Special Revenue							82034
Fund Group			\$	79,516,171	\$	133,094,695	82035
Lottery Profits Education Fund Group							82036
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300	82037
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700	82038
		Reimbursement					
TOTAL LPE Lottery Profits							82039
Education Fund Group			\$	637,900,000	\$	637,900,000	82040
Revenue Distribution Fund Group							82041
053	200-900	School District	\$	115,911,593	\$	115,911,593	82042
		Property Tax					

Replacement

TOTAL RDF Revenue Distribution			82043
Fund Group	\$ 115,911,593	\$ 115,911,593	82044
TOTAL ALL BUDGET FUND GROUPS	\$ 9,414,667,233	\$ 9,772,642,898	82045

**Section 40.01. MAINTENANCE AND EQUIPMENT** 82047

Of the foregoing appropriation item 200-320, Maintenance and 82048  
Equipment, up to \$25,000 may be expended in each fiscal year for 82049  
State Board of Education out-of-state travel. 82050

**Section 40.02. PUBLIC PRESCHOOL** 82051

The Department of Education shall distribute the foregoing 82052  
appropriation item 200-408, Public Preschool, to pay the costs of 82053  
comprehensive preschool programs. As used in this section, "school 82054  
district" means a city, local, exempted village, or joint 82055  
vocational school district, or an educational service center. 82056

(A) In each fiscal year, up to two per cent of the total 82057  
appropriation may be used by the department for program support 82058  
and technical assistance; developing program capacity; and 82059  
assisting programs with facilities planning, construction, 82060  
renovation, or lease agreements in conjunction with the Community 82061  
Development Finance Fund (CDFF). The Department shall distribute 82062  
the remainder of the appropriation in each fiscal year to serve 82063  
children from families earning not more than 185 per cent of the 82064  
federal poverty guidelines. 82065

(B) The department shall provide an annual report to the 82066  
Governor, the Speaker of the House of Representatives, the 82067  
President of the Senate, the State Board of Education, Head Start 82068  
agencies, and other interested parties regarding the Public 82069  
Preschool Program and performance indicators, as outlined by the 82070  
Department. 82071

(C) For purposes of this section, "eligible child" means a 82072

child who is at least three years of age, is not of the age to be 82073  
eligible for kindergarten, and whose family earns not more than 82074  
185 per cent of the federal poverty guidelines. 82075

(D) After setting aside the amounts to make payments due from 82076  
the previous fiscal year, in fiscal year 2004 and fiscal year 82077  
2005, the Department shall distribute funds first to recipients of 82078  
funds under the program in the previous fiscal year and the 82079  
balance to new recipients. Awards under this section shall be 82080  
distributed on a per-pupil basis, which the Department may adjust 82081  
so that the per-pupil amount multiplied by the number of eligible 82082  
children enrolled and receiving services, as defined by the 82083  
Department, reported on the first day of December or the first 82084  
business day following that date equals the amount allocated under 82085  
division (A) of this section. The Department may increase the 82086  
per-pupil amount by a reasonable percentage for inflation, to be 82087  
determined by the Department. 82088

The Department may reallocate unobligated or unspent money to 82089  
participating school districts for purposes of program expansion, 82090  
improvement, or special projects to promote quality and 82091  
innovation. 82092

(E) Costs for developing and administering a preschool 82093  
program may not exceed fifteen per cent of the total approved 82094  
costs of the program. 82095

All recipients of funds shall maintain such fiscal control 82096  
and accounting procedures as may be necessary to ensure the 82097  
disbursement of, and accounting for, these funds. The control of 82098  
funds provided in this program, and title to property obtained 82099  
therefrom, shall be under the authority of the approved recipient 82100  
for purposes provided in the program unless, as described in 82101  
division (J) of this section, a preschool program waives its right 82102  
for funding or a program's funding is eliminated or reduced due to 82103  
its inability to meet financial or program performance standards. 82104

The approved recipient shall administer and use such property and funds for the purposes specified. 82105  
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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. 82107  
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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. 82111  
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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 82133  
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reporting. 82137

(I) Each school district shall develop a sliding fee scale 82138  
based on family incomes in the district and shall charge families 82139  
who earn more than the federal poverty guidelines for preschool. 82140

(J) If a public preschool program voluntarily waives its 82141  
right for funding, or has its funding eliminated for not meeting 82142  
financial standards or program performance standards, the grantee 82143  
and delegate shall transfer control of title to property, 82144  
equipment, and remaining supplies obtained through the program to 82145  
designated grantees and return any unexpended funds to the 82146  
Department along with any reports prescribed by the Department. 82147  
The funding made available from a program that waives its right 82148  
for funding or has its funding eliminated or reduced may be used 82149  
by the Department for new grant awards or expansion grants. The 82150  
Department may award new grants or expansion grants to eligible 82151  
providers who apply. The eligible providers who apply must do so 82152  
in accordance with the competitive bidding process established by 82153  
the Department. 82154

**Section 40.03. PROFESSIONAL DEVELOPMENT** 82155

Of the foregoing appropriation item 200-410, Professional 82156  
Development, \$5,200,000 in fiscal year 2004 shall be used by the 82157  
Department of Education to support a statewide comprehensive 82158  
system of regional professional development centers that support 82159  
local educators' ability to foster academic achievement in the 82160  
students they serve. Of the foregoing appropriation item 200-410, 82161  
Professional Development, \$5,200,000 in fiscal year 2005 shall be 82162  
used by the regional education delivery system. Before releasing 82163  
these funds in fiscal year 2005, the Department of Education shall 82164  
submit a spending plan to the Controlling Board. The release of 82165  
the funds is contingent on Controlling Board approval of the 82166  
spending plan. Both the regional professional development centers 82167

in fiscal year 2004 and the regional education delivery system in 82168  
fiscal year 2005 shall include training that assists educators, 82169  
school leadership, and technical assistance providers in 82170  
understanding and implementing standards-based education, data 82171  
analysis, and development of assessment systems for quality 82172  
instruction. 82173

Of the foregoing appropriation item 200-410, Professional 82174  
Development, \$7,079,625 in fiscal year 2004 and \$8,004,625 in 82175  
fiscal year 2005 shall be used by the Department of Education to 82176  
provide grants to pay \$2,000 of the application fee in order to 82177  
assist teachers from public and chartered nonpublic schools 82178  
applying for the first time to the National Board for Professional 82179  
Teaching Standards for professional teaching certificates or 82180  
licenses that the board offers. This set aside shall also be used 82181  
to recognize and reward teachers who become certified by the 82182  
National Board for Professional Teaching Standards pursuant to 82183  
section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal 82184  
year of this set aside may be used by the Department to pay for 82185  
costs associated with activities to support candidates through the 82186  
application and certification process. 82187

These moneys shall be used to pay up to the first 500 82188  
applications in fiscal year 2004 and the first 400 applications in 82189  
fiscal year 2005 received by the Department. Each prospective 82190  
applicant for certification or licensure shall submit an 82191  
application to the Department of Education. When the Department 82192  
has collected a group of applications, but not later than 30 days 82193  
after receipt of the first application in a group, it shall send 82194  
the applications to the National Board for Professional Teaching 82195  
Standards along with a check to cover the remaining cost of the 82196  
application fee for all applicants in that group. 82197

Of the foregoing appropriation item 200-410, Professional 82198  
Development, up to \$13,442,358 in each fiscal year shall be 82199

allocated for entry year programs. These funds shall be used to 82200  
support mentoring services and performance assessments of 82201  
beginning teachers in school districts and chartered nonpublic 82202  
schools. 82203

Of the foregoing appropriation item 200-410, Professional 82204  
Development, up to \$188,090 in each fiscal year shall be used to 82205  
provide technical assistance and grants for districts to develop 82206  
local knowledge/skills-based compensation systems. Each district 82207  
receiving grants shall issue an annual report to the Department of 82208  
Education detailing the use of the funds and the impact of the 82209  
system developed by the district. 82210

Of the foregoing appropriation item 200-410, Professional 82211  
Development, up to \$670,000 in each fiscal year shall be used for 82212  
training and professional development of school administrators, 82213  
school treasurers, and school business officials. 82214

Of the foregoing appropriation item 200-410, Professional 82215  
Development, \$144,000 in each fiscal year shall be used by the 82216  
Department of Education to develop a supply and demand report that 82217  
describes the availability of quality educators and critical 82218  
educator shortage areas in Ohio. 82219

Of the foregoing appropriation item 200-410, Professional 82220  
Development, \$1,056,000 in each fiscal year shall be used for 82221  
educator recruitment programs targeting special need areas, 82222  
including recruiting highly qualified minority candidates into 82223  
teaching, recruiting prospective mathematics and science teachers, 82224  
and targeting other areas of special need. 82225

Of the foregoing appropriation item 200-410, Professional 82226  
Development, \$60,000 in fiscal year 2004 and \$70,000 in fiscal 82227  
year 2005 shall be used to support the Ohio University Leadership 82228  
Program. 82229

Of the foregoing appropriation item 200-410, Professional 82230

Development, \$4,650,000 in each fiscal year shall be allocated by 82231  
the Department of Education on a per pupil basis, to school 82232  
districts in academic emergency. These funds shall be used by the 82233  
districts to provide an equivalent of five days of ongoing 82234  
embedded professional development for classroom teachers who 82235  
provide instruction in the subject areas of reading, writing, 82236  
mathematics, science, or social studies to students enrolled in 82237  
the ninth or tenth grade. This professional development shall 82238  
focus on developing subject competency, developing cultural 82239  
competency, developing skills for analyzing test data, and 82240  
developing data-based intervention strategies to prepare students 82241  
below grade level to pass the Ohio Graduation Test. Districts 82242  
shall submit a research-based, professional development plan for 82243  
five days of embedded professional development to the Department 82244  
of Education prior to receiving funds. The plan shall detail how 82245  
ninth and tenth grade teachers will learn and implement classroom 82246  
strategies for students to reach state standards in mathematics, 82247  
reading, writing, social studies, and science. 82248

**CAREER-TECHNICAL EDUCATION MATCH** 82249

The foregoing appropriation item 200-416, Career-Technical 82250  
Education Match, shall be used by the Department of Education to 82251  
provide vocational administration matching funds pursuant to 20 82252  
U.S.C. 2311. 82253

**Section 40.04. TECHNICAL SYSTEMS DEVELOPMENT** 82254

The foregoing appropriation item 200-420, Technical Systems 82255  
Development, shall be used to support the development and 82256  
implementation of information technology solutions designed to 82257  
improve the performance and customer service of the Department of 82258  
Education. Funds may be used for personnel, maintenance, and 82259  
equipment costs related to the development and implementation of 82260  
these technical system projects. Implementation of these systems 82261

shall allow the Department to provide greater levels of assistance 82262  
to school districts and to provide more timely information to the 82263  
public, including school districts, administrators, and 82264  
legislators. 82265

ALTERNATIVE EDUCATION PROGRAMS 82266

There is hereby created the Alternative Education Advisory 82267  
Council, which shall consist of one representative from each of 82268  
the following agencies: the Ohio Department of Education; the 82269  
Department of Youth Services; the Ohio Department of Alcohol and 82270  
Drug Addiction Services; the Department of Mental Health; the 82271  
Office of the Governor or, at the Governor's discretion, the 82272  
Office of the Lieutenant Governor; the Office of the Attorney 82273  
General; and the Office of the Auditor of State. 82274

Of the foregoing appropriation item 200-421, Alternative 82275  
Education Programs, not less than \$7,529,274 in each fiscal year 82276  
shall be used for the renewal of successful implementation grants 82277  
and for competitive matching grants to the 21 urban school 82278  
districts as defined in division (O) of section 3317.02 of the 82279  
Revised Code as it existed prior to July 1, 1998, and not less 82280  
than \$7,494,820 in each fiscal year shall be used for the renewal 82281  
of successful implementation of grants and for competitive 82282  
matching grants to rural and suburban school districts for 82283  
alternative educational programs for existing and new at-risk and 82284  
delinquent youth. Programs shall be focused on youth in one or 82285  
more of the following categories: those who have been expelled or 82286  
suspended, those who have dropped out of school or who are at risk 82287  
of dropping out of school, those who are habitually truant or 82288  
disruptive, or those on probation or on parole from a Department 82289  
of Youth Services facility. Grants shall be awarded according to 82290  
the criteria established by the Alternative Education Advisory 82291  
Council in 1999. Grants shall be awarded only to programs where 82292  
the grant would not serve as the program's primary source of 82293

funding. These grants shall be administered by the Department of Education. 82294  
82295

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. 82296  
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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. 82302  
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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. 82305  
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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. 82311  
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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 82316  
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behavior. 82325

SCHOOL MANAGEMENT ASSISTANCE 82326

Of the foregoing appropriation item 200-422, School 82327  
Management Assistance, \$351,000 in each fiscal year shall be used 82328  
by the Auditor of State for expenses incurred in the Auditor of 82329  
State's role relating to fiscal caution activities as defined in 82330  
Chapter 3316. of the Revised Code. Expenses include duties related 82331  
to the completion of performance audits for school districts that 82332  
the Superintendent of Public Instruction determines are employing 82333  
fiscal practices or experiencing budgetary conditions that could 82334  
produce a state of fiscal watch or fiscal emergency. 82335

The remainder of foregoing appropriation item 200-422, School 82336  
Management Assistance, shall be used by the Department of 82337  
Education to provide fiscal technical assistance and inservice 82338  
education for school district management personnel and to 82339  
administer, monitor, and implement the fiscal watch and fiscal 82340  
emergency provisions under Chapter 3316. of the Revised Code. 82341

POLICY ANALYSIS 82342

The foregoing appropriation item 200-424, Policy Analysis, 82343  
shall be used by the Department of Education to support a system 82344  
of administrative, statistical, and legislative education 82345  
information to be used for policy analysis. Staff supported by 82346  
this appropriation shall administer the development of reports, 82347  
analyses, and briefings to inform education policymakers of 82348  
current trends in education practice, efficient and effective use 82349  
of resources, and evaluation of programs to improve education 82350  
results. The database shall be kept current at all times. These 82351  
research efforts shall be used to supply information and analysis 82352  
of data to the General Assembly and other state policymakers, 82353  
including the Office of Budget and Management and the Legislative 82354  
Service Commission. 82355

The Department of Education may use funding from this 82356  
appropriation item to purchase or contract for the development of 82357  
software systems or contract for policy studies that will assist 82358  
in the provision and analysis of policy-related information. 82359  
Funding from this appropriation item also may be used to monitor 82360  
and enhance quality assurance for research-based policy analysis 82361  
and program evaluation to enhance the effective use of education 82362  
information to inform education policymakers. 82363

TECH PREP CONSORTIA SUPPORT 82364

The foregoing appropriation item 200-425, Tech Prep Consortia 82365  
Support, shall be used by the Department of Education to support 82366  
state-level activities designed to support, promote, and expand 82367  
tech prep programs. Use of these funds shall include, but not be 82368  
limited to, administration of grants, program evaluation, 82369  
professional development, curriculum development, assessment 82370  
development, program promotion, communications, and statewide 82371  
coordination of tech prep consortia. 82372

OHIO EDUCATIONAL COMPUTER NETWORK 82373

The foregoing appropriation item 200-426, Ohio Educational 82374  
Computer Network, shall be used by the Department of Education to 82375  
maintain a system of information technology throughout Ohio and to 82376  
provide technical assistance for such a system in support of the 82377  
State Education Technology Plan pursuant to section 3301.07 of the 82378  
Revised Code. 82379

Of the foregoing appropriation item 200-426, Ohio Educational 82380  
Computer Network, up to \$18,592,763 in each fiscal year shall be 82381  
used by the Department of Education to support connection of all 82382  
public school buildings to the state's education network, to each 82383  
other, and to the Internet. In each fiscal year the Department of 82384  
Education shall use these funds to assist data acquisition sites 82385  
or school districts with the operational costs associated with 82386

this connectivity. The Department of Education shall develop a 82387  
formula and guidelines for the distribution of these funds to the 82388  
data acquisition sites or individual school districts. As used in 82389  
this section, "public school building" means a school building of 82390  
any city, local, exempted village, or joint vocational school 82391  
district, or any community school established under Chapter 3314. 82392  
of the Revised Code, or any educational service center building 82393  
used for instructional purposes, or the Ohio School for the Deaf 82394  
and the Ohio School for the Blind, or high schools chartered by 82395  
the Ohio Department of Youth Services and high schools operated by 82396  
Ohio Department of Rehabilitation and Corrections' Ohio Central 82397  
School System. 82398

Of the foregoing appropriation item 200-426, Ohio Educational 82399  
Computer Network, up to \$1,884,355 in each fiscal year shall be 82400  
used for the Union Catalog and InfOhio Network. 82401

The Department of Education shall use up to \$3,412,500 in 82402  
each fiscal year to assist designated data acquisition sites with 82403  
operational costs associated with the increased use of the state's 82404  
education network by chartered nonpublic schools. The Department 82405  
of Education shall use the same per building amount as used to 82406  
provide connectivity subsidy funds to public school buildings. 82407

The remainder of appropriation item 200-426, Ohio Educational 82408  
Computer Network, shall be used to support development, 82409  
maintenance, and operation of a network of uniform and compatible 82410  
computer-based information and instructional systems. The 82411  
technical assistance shall include, but not be restricted to, 82412  
development and maintenance of adequate computer software systems 82413  
to support network activities. Program funds may be used, through 82414  
a formula and guidelines devised by the department, to subsidize 82415  
the activities of designated data acquisition sites, as defined by 82416  
State Board of Education rules, to provide school districts and 82417  
chartered nonpublic schools with computer-based student and 82418

teacher instructional and administrative information services, 82419  
including approved computerized financial accounting, and to 82420  
ensure the effective operation of local automated administrative 82421  
and instructional systems. To broaden the scope of the use of 82422  
technology for education, the Department may use up to \$223,762 in 82423  
each fiscal year to coordinate the activities of the computer 82424  
network with other agencies funded by the department or the state. 82425  
In order to improve the efficiency of network activities, the 82426  
department and data acquisition sites may jointly purchase 82427  
equipment, materials, and services from funds provided under this 82428  
appropriation for use by the network and, when considered 82429  
practical by the department, may utilize the services of 82430  
appropriate state purchasing agencies. 82431

ACADEMIC STANDARDS 82432

Of the foregoing appropriation item 200-427, Academic 82433  
Standards, up to \$731,250 in each fiscal year shall be used to 82434  
provide funds to school districts that have one or more teachers 82435  
participating in the teachers-on-loan program. 82436

The remainder of appropriation item 200-427, Academic 82437  
Standards, shall be used by the Department of Education to develop 82438  
and communicate to school districts academic content standards and 82439  
curriculum models. The Department of Education shall communicate 82440  
these standards and curricula to school districts primarily 82441  
through Internet website postings and electronic mail. 82442

**Section 40.05.** SCHOOL IMPROVEMENT INITIATIVES 82443

Of the foregoing appropriation item 200-431, School 82444  
Improvement Initiatives, \$10,505,625 in each fiscal year shall be 82445  
used to provide technical assistance to school districts that are 82446  
declared to be in a state of academic watch or academic emergency 82447  
under section 3302.03 of the Revised Code to provide support to 82448  
districts in the development and implementation of their 82449

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 \$350,000 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 82480  
time for the teacher trainers, and to provide grants to districts 82481  
to implement other reading improvement programs on a pilot basis. 82482  
Funds from this appropriation item also may be used to conduct 82483  
evaluations of the impact and effectiveness of Reading Recovery 82484  
and other reading improvement programs. 82485

The remainder of appropriation item 200-433, 82486  
Reading/Writing/Math Improvement, shall be used to support 82487  
standards-based classroom reading and writing instruction and 82488  
reading intervention and the design/development of standards-based 82489  
literacy curriculum materials; to support literacy professional 82490  
development partnerships between the Department of Education, 82491  
higher education institutions, the literacy specialists project, 82492  
the Ohio principals' literacy network, regional literacy teams, 82493  
literacy networks, and school districts. 82494

STUDENT ASSESSMENT 82495

Of the foregoing appropriation item 200-437, Student 82496  
Assessment, \$500,000 in fiscal year 2004 and \$100,000 in fiscal 82497  
year 2005 shall be used by the Department of Education to train 82498  
school district personnel to score the practice version of the 82499  
Ohio Graduation Test to be taken by students enrolled in the ninth 82500  
grade in school districts in academic watch or academic emergency 82501  
pursuant to sections 3301.0710 and 3301.0711 of the Revised Code. 82502

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The remainder of appropriation item 200-437, Student 82504  
Assessment, shall be used to develop, field test, print, 82505  
distribute, score, report results, and support other associated 82506  
costs for the tests required under sections 3301.0710 and 82507  
3301.0711 of the Revised Code and for similar purposes as required 82508  
by section 3301.27 of the Revised Code. 82509

ACCOUNTABILITY/REPORT CARDS 82510

The foregoing appropriation item 200-439, 82511  
Accountability/Report Cards, shall be used for the development of 82512  
an accountability system that includes the preparation and 82513  
distribution of school report cards pursuant to section 3302.03 of 82514  
the Revised Code. 82515

AMERICAN SIGN LANGUAGE 82516

Of the foregoing appropriation item 200-441, American Sign 82517  
Language, up to \$136,943 in each fiscal year shall be used to 82518  
implement pilot projects for the integration of American Sign 82519  
Language deaf language into the kindergarten through twelfth-grade 82520  
curriculum. 82521

The remainder of the appropriation shall be used by the 82522  
Department of Education to provide supervision and consultation to 82523  
school districts in dealing with parents of children who are deaf 82524  
or hard of hearing, in integrating American Sign Language as a 82525  
foreign language, and in obtaining interpreters and improving 82526  
their skills. 82527

CHILD CARE LICENSING 82528

The foregoing appropriation item 200-442, Child Care 82529  
Licensing, shall be used by the Department of Education to license 82530  
and to inspect preschool and school-age child care programs in 82531  
accordance with sections 3301.52 to 3301.59 of the Revised Code. 82532

OHIOREADS ADMIN/VOLUNTEER SUPPORT 82533

The foregoing appropriation item 200-445, OhioReads 82534  
Admin/Volunteer Support, may be allocated by the OhioReads Office 82535  
in the Department of Education at the direction of the OhioReads 82536  
Council for volunteer coordinators in public school buildings, to 82537  
educational service centers for costs associated with volunteer 82538  
coordination, for background checks for volunteers, to evaluate 82539  
the OhioReads Program, and for operating expenses associated with 82540

administering the program. 82541

**Section 40.06.** EDUCATION MANAGEMENT INFORMATION SYSTEM 82542

The foregoing appropriation item 200-446, Education 82543  
Management Information System, shall be used by the Department of 82544  
Education to improve the Education Management Information System 82545  
(EMIS). 82546

Of the foregoing appropriation item 200-446, Education 82547  
Management Information System, up to \$1,295,857 in each fiscal 82548  
year shall be distributed to designated data acquisition sites for 82549  
costs relating to processing, storing, and transferring data for 82550  
the effective operation of the EMIS. These costs may include, but 82551  
are not limited to, personnel, hardware, software development, 82552  
communications connectivity, professional development, and support 82553  
services, and to provide services to participate in the State 82554  
Education Technology Plan pursuant to section 3301.07 of the 82555  
Revised Code. 82556

Of the foregoing appropriation item 200-446, Education 82557  
Management Information System, up to \$8,055,189 in each fiscal 82558  
year shall be distributed on a per-pupil basis to school 82559  
districts, community schools established under Chapter 3314. of 82560  
the Revised Code, education service centers, joint vocational 82561  
school districts, and any other education entity that reports data 82562  
through EMIS. From this funding, each school district or community 82563  
school established under Chapter 3314. of the Revised Code with 82564  
enrollment greater than 100 students and each vocational school 82565  
district shall receive a minimum of \$5,000 in each fiscal year. 82566  
Each school district or community school established under Chapter 82567  
3314. of the Revised Code with enrollment between one and one 82568  
hundred and each education service center and each county board of 82569  
MR/DD that submits data through EMIS shall receive \$3,000 in each 82570  
fiscal year. This subsidy shall be used for costs relating to 82571

reporting, processing, storing, transferring, and exchanging data 82572  
necessary to meet requirements of the Department of Education's 82573  
data system. 82574

Of the foregoing appropriation item 200-446, Education 82575  
Management Information System, \$2,532,500 in each fiscal year 82576  
shall be used by the Department of Education for the development 82577  
and implementation of a common core of Education Management 82578  
Information System data definitions, business practices, and data 82579  
format standards for the Education Management Information System. 82580  
This common core shall provide the basis upon which a student 82581  
software administration package certification process will be 82582  
designed, developed, and conducted by the Department. On an annual 82583  
basis, the Department of Education shall convene an advisory group 82584  
of school districts, community schools, and other 82585  
education-related entities to review data standards, the 82586  
certification criteria, and the certification process to recommend 82587  
changes and enhancements based upon surveys of the software 82588  
industry and surveys of education agencies in other states to 82589  
ensure that Ohio's data standards and associated software 82590  
certification process reflect best practices, align with federal 82591  
initiatives, and meet the needs of school districts. Additionally, 82592  
the Department shall utilize these funds to continue support of 82593  
the Student Management Record System, as defined by the Department 82594  
of Education, and to ensure the software is in compliance with the 82595  
Education Management Information System certification criteria. 82596  
The Department of Education shall work with data acquisition sites 82597  
and their member school districts and community schools to 82598  
implement the software in up to four data acquisition sites in 82599  
each fiscal year. 82600

School districts and community schools shall convert to a 82601  
student software package that meets the certification criteria by 82602  
July 1, 2005. If a school district or community school does not 82603

have a certified software package by July 1, 2005, the Department 82604  
of Education shall work with the school district or community 82605  
school and the data acquisition site to obtain the necessary 82606  
software or service. 82607

GED TESTING/ADULT HIGH SCHOOL 82608

The foregoing appropriation item 200-447, GED Testing/Adult 82609  
High School, shall be used to provide General Educational 82610  
Development (GED) testing at no cost to applicants, pursuant to 82611  
rules adopted by the State Board of Education. The Department of 82612  
Education shall reimburse school districts and community schools, 82613  
created in accordance with Chapter 3314. of the Revised Code, for 82614  
a portion of the costs incurred in providing summer instructional 82615  
or intervention services to students who have not graduated due to 82616  
their inability to pass one or more parts of the state's ninth 82617  
grade proficiency test. School districts shall also provide such 82618  
services to students who are residents of the district pursuant to 82619  
section 3313.64 of the Revised Code, but who are enrolled in 82620  
chartered, nonpublic schools. The services shall be provided in 82621  
the public school, in nonpublic schools, in public centers, or in 82622  
mobile units located on or off the nonpublic school premises. No 82623  
school district shall provide summer instructional or intervention 82624  
services to nonpublic school students as authorized by this 82625  
section unless such services are available to students attending 82626  
the public schools within the district. No school district shall 82627  
provide services for use in religious courses, devotional 82628  
exercises, religious training, or any other religious activity. 82629  
Chartered, nonpublic schools shall pay for any unreimbursed costs 82630  
incurred by school districts for providing summer instruction or 82631  
intervention services to students enrolled in chartered, nonpublic 82632  
schools. School districts may provide these services to students 82633  
directly or contract with postsecondary or nonprofit 82634  
community-based institutions in providing instruction. The 82635

appropriation also shall be used for state reimbursement to school districts for adult high school continuing education programs pursuant to section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code.

EDUCATOR PREPARATION

The foregoing appropriation item 200-448, Educator Preparation, shall be used by the Ohio Teacher Education and Licensure Advisory Commission to carry out the responsibilities of the 21-member Ohio Teacher Education and Licensure Advisory Commission. The advisory commission is charged by the State Board of Education with considering all matters related to educator preparation and licensure, including standards for educator preparation and licensure, approval of institutions and programs, and recommending decisions to the State Board of Education.

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP

The foregoing appropriation item 200-449, Head Start/Head Start Plus Start Up, shall be used to provide start up grants for Title IV-A reimbursable funding for the provision of services to children eligible for Title IV-A services. In fiscal year 2004, these grants shall be provided to Title IV-A Head Start agencies. In fiscal year 2005, these grants shall be provided to Title IV-A Head Start agencies and Title IV-A Head Start Plus agencies. The amount of each grant shall be determined by the Department of Education. Funds appropriated for this purpose shall be reimbursed to the General Revenue Fund when the Title IV-A Head Start or Title IV-A Head Start Plus programs cease or are no longer funded from Title IV-A. If one program ceases or is no longer funded with Title IV-A funds, the General Revenue Fund will be reimbursed for that program.

If a Title IV-A Head Start agency or Title IV-A Head Start

Plus agency chooses not to participate in the program or if the 82667  
Department or Education suspends or terminates part or all of its 82668  
funding, reimbursement owed to the grantee shall be held by the 82669  
Department of Education up to the amount of the grant owed by the 82670  
grantee. If insufficient reimbursement is available to recover the 82671  
amount owed by the grantee, the grantee shall return the remaining 82672  
balance within 60 days of the date of the decision not to 82673  
participate, the suspension, or the termination. Funding recovered 82674  
from such grantees shall be used by the Department of Education 82675  
for supplying grants to new grantees for Title IV-A reimbursable 82676  
funding for provision of services to children eligible for Title 82677  
IV-A services. Any funding remaining when the Title IV-A Head 82678  
Start and the Title IV-A Head Start Plus programs cease or are no 82679  
longer funded with Title IV-A funds shall be returned to the 82680  
General Revenue Fund. 82681

The Title IV-A Head Start Plus agency that is receiving funds 82682  
to operate a Head Start program in accordance with section 3301.35 82683  
of the Revised Code shall provide the program through contracts 82684  
with child care providers licensed or certified in accordance with 82685  
Chapter 5104. of the Revised Code. If a licensed or certified 82686  
child care provider is not in operation or willing to participate 82687  
and if eligible families are in need of full-day and full-year 82688  
Head Start and child care services, the Title IV-A Head Start Plus 82689  
agency may be the sole source provider. 82690

TEACHING SUCCESS COMMISSION INITIATIVES 82691

The foregoing appropriation item 200-452, Teaching Success 82692  
Commission Initiatives, shall be used by the Department of 82693  
Education to support initiatives recommended by the Governor's 82694  
Commission on Teaching Success. 82695

COMMUNITY SCHOOLS 82696

Of the foregoing appropriation item 200-455, Community 82697

Schools, up to \$1,308,661 in each fiscal year may be used by the 82698  
Department of Education for additional services and 82699  
responsibilities under section 3314.11 of the Revised Code. 82700

Of the foregoing appropriation item 200-455, Community 82701  
Schools, up to \$250,000 in each fiscal year may be used by the 82702  
Department of Education for developing and conducting training 82703  
sessions for sponsors and prospective sponsors of community 82704  
schools as prescribed in division (A)(1) of section 3314.015 of 82705  
the Revised Code. In developing such training sessions, the 82706  
Department shall collect and disseminate examples of best 82707  
practices used by sponsors of independent charter schools in Ohio 82708  
and other states. 82709

The remaining appropriation may be used by the Department of 82710  
Education to make grants of up to \$50,000 to each proposing group 82711  
with a preliminary agreement obtained under division (C)(2) of 82712  
section 3314.02 of the Revised Code in order to defray planning 82713  
and initial start-up costs. In the first year of operation of a 82714  
community school, the Department of Education may make a grant of 82715  
not more than \$100,000 to the governing authority of the school to 82716  
partially defray additional start-up costs. The amount of the 82717  
grant shall be based on a thorough examination of the needs of the 82718  
community school. The Department of Education shall not utilize 82719  
moneys received under this section for any other purpose other 82720  
than those specified under this section. 82721

A community school awarded start-up grants from appropriation 82722  
item 200-613, Public Charter Schools (Fund 3T4), shall not be 82723  
eligible for grants under this section. 82724

**Section 40.07. SCHOOL FINANCE EQUITY** 82725

The foregoing appropriation item 200-500, School Finance 82726  
Equity, shall be distributed to school districts based on the 82727  
formula specified in section 3317.0213 of the Revised Code. 82728

**Section 40.08.** BASE COST FUNDING 82729

The foregoing appropriation item 200-501, Base Cost Funding, 82730  
includes \$90,000,000 in each fiscal year for the state education 82731  
aid offset due to the change in public utility valuation as a 82732  
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 82733  
General Assembly. This amount represents the total state education 82734  
aid offset due to the valuation change for school districts and 82735  
joint vocational school districts from all relevant appropriation 82736  
line item sources. If it is determined that the state education 82737  
aid offset is more than \$90,000,000, the Controlling Board may 82738  
increase the appropriation for appropriation item 200-501, Base 82739  
Cost Funding, by the difference amount if presented with such a 82740  
request from the Department of Education. The appropriation 82741  
increase, if any, is hereby appropriated. If it is determined that 82742  
the state education aid offset is less than \$90,000,000, the 82743  
Director of Budget and Management shall then reduce the 82744  
appropriation for appropriation item 200-501, Base Cost Funding, 82745  
by the difference amount and notify the Controlling Board of this 82746  
action. The appropriation decrease determined by the Director of 82747  
Budget and Management, if any, is hereby approved, and 82748  
appropriations are hereby reduced by the amount determined. 82749

Of the foregoing appropriation item 200-501, Base Cost 82750  
Funding, up to \$425,000 shall be expended in each fiscal year for 82751  
court payments pursuant to section 2151.357 of the Revised Code; 82752  
an amount shall be available in each fiscal year for the cost of 82753  
reappraisal guarantee pursuant to section 3317.04 of the Revised 82754  
Code; an amount shall be available in each fiscal year to fund up 82755  
to 225 full-time equivalent approved GRADS teacher grants pursuant 82756  
to division (R) of section 3317.024 of the Revised Code; an amount 82757  
shall be available in each fiscal year to make payments to school 82758  
districts pursuant to division (A)(2) of section 3317.022 of the 82759

Revised Code; an amount shall be available in each fiscal year to 82760  
make payments to school districts pursuant to division (F) of 82761  
section 3317.022 of the Revised Code; an amount shall be available 82762  
in each fiscal year to make payments to school districts pursuant 82763  
to division (C) of section 3317.0212 of the Revised Code; and up 82764  
to \$15,000,000 in each fiscal year shall be reserved for payments 82765  
pursuant to sections 3317.026, 3317.027, and 3317.028 of the 82766  
Revised Code except that the Controlling Board may increase the 82767  
\$15,000,000 amount if presented with such a request from the 82768  
Department of Education. Of the foregoing appropriation item 82769  
200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year 82770  
shall be used to provide additional state aid to school districts 82771  
for special education students pursuant to division (C)(3) of 82772  
section 3317.022 of the Revised Code; up to \$2,000,000 in each 82773  
fiscal year shall be reserved for Youth Services tuition payments 82774  
pursuant to section 3317.024 of the Revised Code; and up to 82775  
\$52,000,000 in each fiscal year shall be reserved to fund the 82776  
state reimbursement of educational service centers pursuant to 82777  
section 3317.11 of the Revised Code and the section of this act 82778  
entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 82779  
available for special education weighted funding pursuant to 82780  
division (C)(1) of section 3317.022 and division (D)(1) of section 82781  
3317.16 of the Revised Code. 82782

Of the foregoing appropriation item 200-501, Base Cost 82783  
Funding, an amount shall be available in each fiscal year to be 82784  
used by the Department of Education for transitional aid for 82785  
school districts. Funds shall be distributed pursuant to the 82786  
section of this act entitled "TRANSITIONAL AID." 82787

Of the foregoing appropriation item 200-501, Base Cost 82788  
Funding, up to \$1,000,000 in each fiscal year shall be used by the 82789  
Department of Education for a pilot program to pay for educational 82790  
services for youth who have been assigned by a juvenile court or 82791

other authorized agency to any of the facilities described in 82792  
division (A) of the section titled "Private Treatment Facility 82793  
Pilot Project." 82794

The remaining portion of appropriation item 200-501, Base 82795  
Cost Funding, shall be expended for the public schools of city, 82796  
local, exempted village, and joint vocational school districts, 82797  
including base cost funding, special education speech service 82798  
enhancement funding, career-technical education weight funding, 82799  
career-technical education associated service funding, guarantee 82800  
funding, and teacher training and experience funding pursuant to 82801  
sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised 82802  
Code. 82803

Appropriation items 200-500, School Finance Equity, 200-501, 82804  
Base Cost Funding, 200-502, Pupil Transportation, 200-520, 82805  
Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 82806  
200-525, Parity Aid, and 200-546, Charge-Off Supplement, other 82807  
than specific set-asides, are collectively used in each fiscal 82808  
year to pay state formula aid obligations for school districts and 82809  
joint vocational school districts pursuant to Chapter 3317. of the 82810  
Revised Code. The first priority of these appropriation items, 82811  
with the exception of specific set-asides, is to fund state 82812  
formula aid obligations under Chapter 3317. of the Revised Code. 82813  
It may be necessary to reallocate funds among these appropriation 82814  
items in order to meet state formula aid obligations. If it is 82815  
determined that it is necessary to transfer funds among these 82816  
appropriation items to meet state formula aid obligations, the 82817  
Department of Education shall seek approval from the Controlling 82818  
Board to transfer funds among these appropriation items. 82819

**Section 40.09. PUPIL TRANSPORTATION** 82820

Of the foregoing appropriation item 200-502, Pupil 82821  
Transportation, up to \$822,400 in each fiscal year may be used by 82822

the Department of Education for training prospective and 82823  
experienced school bus drivers in accordance with training 82824  
programs prescribed by the Department. Up to \$56,975,910 in each 82825  
fiscal year may be used by the Department of Education for special 82826  
education transportation reimbursements to school districts and 82827  
county MR/DD boards for transportation operating costs as provided 82828  
in division (M) of section 3317.024 of the Revised Code. The 82829  
remainder of appropriation item 200-502, Pupil Transportation, 82830  
shall be used for the state reimbursement of public school 82831  
districts' costs in transporting pupils to and from the school 82832  
they attend in accordance with the district's policy, State Board 82833  
of Education standards, and the Revised Code. 82834

BUS PURCHASE ALLOWANCE 82835

The foregoing appropriation item 200-503, Bus Purchase 82836  
Allowance, shall be distributed to school districts, educational 82837  
service centers, and county MR/DD boards pursuant to rules adopted 82838  
under section 3317.07 of the Revised Code. Up to 28 per cent of 82839  
the amount appropriated may be used to reimburse school districts 82840  
and educational service centers for the purchase of buses to 82841  
transport handicapped and nonpublic school students and to county 82842  
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 82843  
for the Blind for the purchase of buses to transport handicapped 82844  
students. 82845

SCHOOL LUNCH MATCH 82846

The foregoing appropriation item 200-505, School Lunch Match, 82847  
shall be used to provide matching funds to obtain federal funds 82848  
for the school lunch program. 82849

**Section 40.10.** ADULT LITERACY EDUCATION 82850

The foregoing appropriation item 200-509, Adult Literacy 82851  
Education, shall be used to support adult basic and literacy 82852

education instructional programs and the State Literacy Resource 82853  
Center Program. 82854

Of the foregoing appropriation item 200-509, Adult Literacy 82855  
Education, up to \$519,188 in each fiscal year shall be used for 82856  
the support and operation of the State Literacy Resource Center. 82857

Of the foregoing appropriation item 200-509, Adult Literacy 82858  
Education, \$146,250 in each fiscal year shall be used to support 82859  
initiatives for English as a second language programs in 82860  
combination with citizenship. Funding shall be provided to 82861  
organizations that received such funds during fiscal year 2003 82862  
from appropriation item 200-570, School Improvement Incentive 82863  
Grants. 82864

The remainder of the appropriation shall be used to continue 82865  
to satisfy the state match and maintenance of effort requirements 82866  
for the support and operation of the Department of 82867  
Education-administered instructional grant program for adult basic 82868  
and literacy education in accordance with the department's state 82869  
plan for adult basic and literacy education as approved by the 82870  
State Board of Education and the Secretary of the United States 82871  
Department of Education. 82872

AUXILIARY SERVICES 82873

The foregoing appropriation item 200-511, Auxiliary Services, 82874  
shall be used by the Department of Education for the purpose of 82875  
implementing section 3317.06 of the Revised Code. Of the 82876  
appropriation, up to \$1,462,500 in each fiscal year may be used 82877  
for payment of the Post-Secondary Enrollment Options Program for 82878  
nonpublic students pursuant to section 3365.10 of the Revised 82879  
Code. 82880

STUDENT INTERVENTION SERVICES 82881

Of the foregoing appropriation item 200-513, Student 82882  
Intervention Services, \$3,700,000 in fiscal year 2004 and 82883

\$5,900,000 in fiscal year 2005 shall be allocated by the 82884  
Department of Education, on a per pupil basis, to school districts 82885  
in academic emergency. Districts shall use these funds for 82886  
salaries, materials, and training to provide after-school, 82887  
in-school, Saturday school, summer school, or other related 82888  
intervention programs to students as specified in division (D)(2) 82889  
of section 3301.0711 of the Revised Code. In fiscal year 2004 82890  
these programs shall be provided to students enrolled in the ninth 82891  
grade. In fiscal year 2005, these programs shall be provided to 82892  
students enrolled in the ninth and tenth grades. At the end of 82893  
each fiscal year, the school districts receiving these funds shall 82894  
report to the Department of Education the number of students who 82895  
were offered intervention, the number of students who 82896  
participated, and the number of students who completed the 82897  
intervention program, and shall provide an evaluation of the 82898  
impact of the intervention on students. 82899

Of the foregoing appropriation item 200-513, Student 82900  
Intervention Services, \$150,000 in each fiscal year shall be used 82901  
for Read Baby Read. 82902

The remainder of appropriation item 200-513, Student 82903  
Intervention Services, shall be used to assist districts providing 82904  
the intervention services specified in section 3313.608 of the 82905  
Revised Code. The Department of Education shall establish 82906  
guidelines for the use and distribution of these moneys. School 82907  
districts receiving funds from this appropriation shall report to 82908  
the Department of Education on how funds were used. 82909

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 82910

Of the foregoing appropriation item 200-514, Postsecondary 82911  
Adult Career-Technical Education, \$40,000 in each fiscal year 82912  
shall be used for the statewide coordination of the activities of 82913  
the Ohio Young Farmers. 82914

The remainder of appropriation item 200-514, Postsecondary 82915  
Adult Career-Technical Education, shall be used by the State Board 82916  
of Education to provide postsecondary adult career-technical 82917  
education under sections 3313.52 and 3313.53 of the Revised Code. 82918

DISADVANTAGED PUPIL IMPACT AID 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 Disadvantaged Pupil Impact Aid 82922  
(DPIA) funding in fiscal year 2004 over what was received in 82923  
fiscal year 2003 unless the district receives DPIA funding from 82924  
the DPIA guarantee provision pursuant to division (B) of section 82925  
3317.029 of the Revised Code in fiscal year 2003. For such a 82926  
district, its DPIA funding in fiscal year 2004 shall equal the 82927  
amount of DPIA funding the district received in fiscal year 2003. 82928

Notwithstanding the distribution formula outlined in section 82929  
3317.029 of the Revised Code, each school district shall receive 82930  
an additional two per cent in DPIA funding in fiscal year 2005 82931  
over what was received in fiscal year 2004 unless the district 82932  
receives DPIA funding from the DPIA guarantee provision pursuant 82933  
to division (B) of section 3317.029 of the Revised Code in fiscal 82934  
year 2003. For such a district, its DPIA funding in fiscal year 82935  
2005 shall equal the amount of DPIA funding the district received 82936  
in fiscal year 2004. 82937

School districts must continue to comply with all expenditure 82938  
guidelines and restrictions outlined in divisions (F), (G), (I), 82939  
and (K) of section 3317.029 of the Revised Code by assuming a two 82940  
per cent increase in funds for each program outlined in divisions 82941  
(C), (D), and (E) of section 3317.029 of the Revised Code and by 82942  
assuming a DPIA index equivalent to the index calculated in fiscal 82943  
year 2003. 82944

The Department of Education shall pay all-day, everyday 82945

kindergarten funding to all school districts in each fiscal year 82946  
that qualified for and provided the service in fiscal year 2003 82947  
pursuant to section 3317.029 of the Revised Code. School districts 82948  
and community schools that did not have a DPIA allocation in 82949  
fiscal year 2003 shall not receive an allocation in fiscal year 82950  
2004 or fiscal year 2005. 82951

Of the foregoing appropriation item 200-520, Disadvantaged 82952  
Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be 82953  
used for school breakfast programs. Of this amount, up to 82954  
\$1,000,000 shall be used in each fiscal year by the Department of 82955  
Education for the purpose of increasing participation in child 82956  
nutrition programs, particularly school breakfast and summer 82957  
meals. The Department shall collaborate with the Children's Hunger 82958  
Alliance in the outreach effort. The remainder of the 82959  
appropriation shall be used to partially reimburse school 82960  
buildings within school districts that are required to have a 82961  
school breakfast program pursuant to section 3313.813 of the 82962  
Revised Code, at a rate decided by the Department. 82963

Of the portion of the funds distributed to the Cleveland 82964  
Municipal School District under this section, up to \$11,901,887 in 82965  
each fiscal year shall be used to operate the school choice 82966  
program in the Cleveland Municipal School District pursuant to 82967  
sections 3313.974 to 3313.979 of the Revised Code. 82968

**Section 40.11. GIFTED PUPIL PROGRAM** 82969

The foregoing appropriation item 200-521, Gifted Pupil 82970  
Program, shall be used for gifted education units not to exceed 82971  
1,110 in each fiscal year pursuant to division (P) of section 82972  
3317.024 and division (F) of section 3317.05 of the Revised Code. 82973

Of the foregoing appropriation item 200-521, Gifted Pupil 82974  
Program, up to \$5,000,000 each in fiscal year may be used as an 82975  
additional supplement for identifying gifted students pursuant to 82976

Chapter 3324. of the Revised Code.	82977
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).	82978 82979 82980 82981 82982 82983 82984 82985 82986
<b>Section 40.12. PARITY AID</b>	82987
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.	82988 82989 82990
<b>NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT</b>	82991
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.	82992 82993 82994 82995
<b>Section 40.13. SPECIAL EDUCATION ENHANCEMENTS</b>	82996
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 and related services units at institutions.	82997 82998 82999 83000 83001 83002 83003 83004
Of the foregoing appropriation item 200-540, Special	83005

Education Enhancements, up to \$2,906,875 in each fiscal year shall 83006  
be used for home instruction for children with disabilities; up to 83007  
\$1,462,500 in each fiscal year shall be used for parent mentoring 83008  
programs; and up to \$2,783,396 in each fiscal year may be used for 83009  
school psychology interns. 83010

Of the foregoing appropriation item 200-540, Special 83011  
Education Enhancements, \$3,406,090 in each fiscal year shall be 83012  
used by the Department of Education to assist school districts in 83013  
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 83014  
3301-51-04 of the Administrative Code. 83015

Of the foregoing appropriation item 200-540, Special 83016  
Education Enhancements, \$78,384,498 in each fiscal year shall be 83017  
distributed by the Department of Education to county boards of 83018  
mental retardation and developmental disabilities, educational 83019  
service centers, and school districts for preschool special 83020  
education units and preschool supervisory units in accordance with 83021  
section 3317.161 of the Revised Code. The department may reimburse 83022  
county boards of mental retardation and developmental 83023  
disabilities, educational service centers, and school districts 83024  
for related services as defined in rule 3301-31-05 of the 83025  
Administrative Code, for preschool occupational and physical 83026  
therapy services provided by a physical therapy assistant and 83027  
certified occupational therapy assistant, and for an instructional 83028  
assistant. To the greatest extent possible, the Department of 83029  
Education shall allocate these units to school districts and 83030  
educational service centers. The Controlling Board may approve the 83031  
transfer of unallocated funds from appropriation item 200-501, 83032  
Base Cost Funding, to appropriation item 200-540, Special 83033  
Education Enhancements, to fully fund existing units as necessary 83034  
or to fully fund additional units. The Controlling Board may 83035  
approve the transfer of unallocated funds from appropriation item 83036  
200-540, Special Education Enhancements, to appropriation item 83037

200-501, Base Cost Funding, to fully fund the special education weight cost funding. 83038  
83039

The Department of Education shall require school districts, 83040  
educational service centers, and county MR/DD boards serving 83041  
preschool children with disabilities to document child progress 83042  
using research-based indicators prescribed by the Department and 83043  
report results annually. The reporting dates and methodology shall 83044  
be determined by the Department. 83045

Of the foregoing appropriation item 200-540, Special 83046  
Education Enhancements, \$315,000 in each fiscal year shall be 83047  
expended to conduct a demonstration project involving language and 83048  
literacy intervention teams supporting student acquisition of 83049  
language and literacy skills. The demonstration project shall 83050  
demonstrate improvement of language and literacy skills of at-risk 83051  
learners under the instruction of certified speech pathologists 83052  
and educators. Baseline data shall be collected and comparison 83053  
data for fiscal year 2004 and fiscal year 2005 shall be collected 83054  
and reported to the Governor, Ohio Reads Council, Department of 83055  
Education, and the General Assembly. 83056

Of the foregoing appropriation item 200-540, Special 83057  
Education Enhancements, up to \$500,000 in each fiscal year shall 83058  
be used for the Research-Based Reading Mentoring Program. 83059

Of the foregoing appropriation item 200-540, Special 83060  
Education Enhancements, \$800,000 in each fiscal year shall be used 83061  
to support the Bellefaire Jewish Children's Bureau. 83062

**Section 40.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS** 83063

Of the foregoing appropriation item 200-545, Career-Technical 83064  
Education Enhancements, up to \$2,576,107 in each fiscal year shall 83065  
be used to fund career-technical education units at institutions. 83066

Of the foregoing appropriation item 200-545, Career-Technical 83067

Education Enhancements, up to \$2,925,000 in each fiscal year shall 83068  
be used by the Department of Education to fund competitive grants 83069  
to tech prep consortia that expand the number of students enrolled 83070  
in tech prep programs. These grant funds shall be used to directly 83071  
support expanded tech prep programs, including equipment, provided 83072  
to students enrolled in school districts, including joint 83073  
vocational school districts, and affiliated higher education 83074  
institutions. 83075

Of the foregoing appropriation item 200-545, Career-Technical 83076  
Education Enhancements, \$2,225,000 in each fiscal year shall be 83077  
used to provide an amount to each eligible school district for the 83078  
replacement or updating of equipment essential for the instruction 83079  
of students in job skills taught as part of a career-technical 83080  
program or programs approved for such instruction by the State 83081  
Board of Education. School districts replacing or updating 83082  
career-technical education equipment may purchase or lease such 83083  
equipment. The Department of Education shall review and approve 83084  
all equipment requests and may allot appropriated funds to 83085  
eligible school districts on the basis of the number of full-time 83086  
equivalent workforce development teachers in all eligible 83087  
districts making application for funds. 83088

The State Board of Education may adopt standards of need for 83089  
equipment allocation. Pursuant to the adoption of any such 83090  
standards of need by the State Board of Education, appropriated 83091  
funds may be allotted to eligible districts according to such 83092  
standards. Equipment funds allotted under either process shall be 83093  
provided to a school district at 30, 40, or 50 per cent of cost on 83094  
the basis of a rating developed by the Department of Education 83095  
using the state share percentage as provided in division (B)(2) of 83096  
section 3317.022 of the Revised Code. 83097

Of the foregoing appropriation item 200-545, Career-Technical 83098  
Education Enhancements, up to \$3,650,000 in each fiscal year shall 83099

be used by the Department of Education to support existing High 83100  
Schools That Work (HSTW) sites, develop and support new sites, 83101  
fund technical assistance, and support regional centers and middle 83102  
school programs. The purpose of HSTW is to combine challenging 83103  
academic courses and modern career-technical studies to raise the 83104  
academic achievement of students. It provides intensive technical 83105  
assistance, focused staff development, targeted assessment 83106  
services, and ongoing communications and networking opportunities. 83107

Of the foregoing appropriation item 200-545, Career-Technical 83108  
Education Enhancements, \$2,400,000 in each fiscal year shall be 83109  
used for K-12 career development. 83110

Of the foregoing appropriation item 200-545, Career-Technical 83111  
Education Enhancements, up to \$496,800 in each fiscal year shall 83112  
be allocated for the Ohio Career Information System (OCIS) and 83113  
used for the dissemination of career information data to public 83114  
schools, libraries, rehabilitation centers, two- and four-year 83115  
colleges and universities, and other governmental units. 83116

Of the foregoing appropriation item 200-545, Career-Technical 83117  
Educational Enhancements, \$300,000 in each fiscal year shall be 83118  
used by the Department of Education to enable students in 83119  
agricultural programs to enroll in a fifth quarter of instruction 83120  
based on the agricultural education model of delivering work-based 83121  
learning through supervised agricultural experience. The 83122  
Department of Education shall determine eligibility criteria and 83123  
the reporting process for the Agriculture 5th Quarter Project and 83124  
shall fund as many programs as possible given the \$300,000 set 83125  
aside. 83126

**Section 40.15. CHARGE-OFF SUPPLEMENT** 83127

The foregoing appropriation item 200-546, Charge-Off 83128  
Supplement, shall be used by the Department of Education to make 83129  
payments pursuant to section 3317.0216 of the Revised Code. 83130

EMERGENCY LOAN INTEREST SUBSIDY 83131

The foregoing appropriation item 200-558, Emergency Loan 83132  
Interest Subsidy, shall be used to provide a subsidy to school 83133  
districts receiving emergency school loans pursuant to section 83134  
3313.484 of the Revised Code. The subsidy shall be used to pay 83135  
these districts the difference between the amount of interest the 83136  
district is paying on an emergency loan, and the interest that the 83137  
district would have paid if the interest rate on the loan had been 83138  
two per cent. 83139

**Section 40.16.** OHIOREADS GRANTS 83140

Of the foregoing appropriation item 200-566, OhioReads 83141  
Grants, the OhioReads Office in the Department of Education shall 83142  
use \$2,125,223 in fiscal year 2004 and \$2,167,728 in fiscal year 83143  
2005 to fund the STARS program. 83144

The remainder of the foregoing appropriation item 200-566, 83145  
OhioReads Grants, shall be disbursed by the OhioReads Office in 83146  
the Department of Education at the direction of the OhioReads 83147  
Council to provide grants to public schools in city, local, and 83148  
exempted village school districts; community schools; and 83149  
educational service centers serving kindergarten through fourth 83150  
grade students to support local reading literacy initiatives 83151  
including reading programs, materials, professional development, 83152  
tutoring, tutor recruitment and training, and parental 83153  
involvement. 83154

Grants awarded by the OhioReads Council are intended to 83155  
improve reading outcomes, especially on reading proficiency tests. 83156

SAFE AND SUPPORTIVE SCHOOLS 83157

Of the foregoing appropriation item 200-578, Safe and 83158  
Supportive Schools, up to \$224,250 in each fiscal year shall be 83159  
used to fund a safe school center to provide resources for parents 83160

and for school and law enforcement personnel. 83161

Of the foregoing appropriation item 200-578, Safe and 83162  
Supportive Schools, up to \$20,000 in each fiscal year may be used 83163  
by schools for the Eddie Eagle Gun Safety Pilot Program. School 83164  
districts wishing to participate in the pilot program shall apply 83165  
to the Department of Education under guidelines established by the 83166  
Superintendent of Public Instruction. 83167

Of the foregoing appropriation item 200-578, Safe and 83168  
Supportive Schools, up to \$1,800,000 in each fiscal year shall be 83169  
used for a safe school help line. 83170

The remainder of the appropriation shall be distributed based 83171  
on guidelines developed by the Department of Education to enhance 83172  
school safety. The guidelines shall provide a list of 83173  
research-based best practices and programs from which local 83174  
grantees shall select based on local needs. These practices shall 83175  
include, but not be limited to, school resource officers and safe 83176  
and drug free school coordinators and social-emotional development 83177  
programs. 83178

**Section 40.17. PROPERTY TAX ALLOCATION - EDUCATION** 83179

The Superintendent of Public Instruction shall not request, 83180  
and the Controlling Board shall not approve, the transfer of funds 83181  
from appropriation item 200-901, Property Tax Allocation - 83182  
Education, to any other appropriation item. 83183

The appropriation item 200-901, Property Tax Allocation - 83184  
Education, is appropriated to pay for the state's costs incurred 83185  
due to the homestead exemption and the property tax rollback. In 83186  
cooperation with the Department of Taxation, the Department of 83187  
Education shall distribute these funds directly to the appropriate 83188  
school districts of the state, notwithstanding sections 321.24 and 83189  
323.156 of the Revised Code, which provide for payment of the 83190

homestead exemption and property tax rollback by the Tax 83191  
Commissioner to the appropriate county treasurer and the 83192  
subsequent redistribution of these funds to the appropriate local 83193  
taxing districts by the county auditor. 83194

Appropriation item 200-906, Tangible Tax Exemption - 83195  
Education, is appropriated to pay for the state's costs incurred 83196  
due to the tangible personal property tax exemption required by 83197  
division (C)(3) of section 5709.01 of the Revised Code. In 83198  
cooperation with the Department of Taxation, the Department of 83199  
Education shall distribute to each county treasurer the total 83200  
amount certified by the county treasurer pursuant to section 83201  
319.311 of the Revised Code, for all school districts located in 83202  
the county, notwithstanding the provision in section 319.311 of 83203  
the Revised Code which provides for payment of the \$10,000 83204  
tangible personal property tax exemption by the Tax Commissioner 83205  
to the appropriate county treasurer for all local taxing districts 83206  
located in the county. Pursuant to division (G) of section 321.24 83207  
of the Revised Code, the county auditor shall distribute the 83208  
amount paid by the Department of Education among the appropriate 83209  
school districts. 83210

Upon receipt of these amounts, each school district shall 83211  
distribute the amount among the proper funds as if it had been 83212  
paid as real or tangible personal property taxes. Payments for the 83213  
costs of administration shall continue to be paid to the county 83214  
treasurer and county auditor as provided for in sections 319.54, 83215  
321.26, and 323.156 of the Revised Code. 83216

Any sums, in addition to the amounts specifically 83217  
appropriated in appropriation items 200-901, Property Tax 83218  
Allocation - Education, for the homestead exemption and the 83219  
property tax rollback payments, and 200-906, Tangible Tax 83220  
Exemption - Education, for the \$10,000 tangible personal property 83221  
tax exemption payments, which are determined to be necessary for 83222

these purposes, are hereby appropriated. 83223

**Section 40.18. TEACHER CERTIFICATION AND LICENSURE 83224**

The foregoing appropriation item 200-681, Teacher 83225  
Certification and Licensure, shall be used by the Department of 83226  
Education in each year of the biennium to administer teacher 83227  
certification and licensure functions pursuant to sections 83228  
3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 83229  
to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 83230  
3319.51 of the Revised Code. 83231

**SCHOOL DISTRICT SOLVENCY ASSISTANCE 83232**

Of the foregoing appropriation item 200-687, School District 83233  
Solvency Assistance, \$9,000,000 in each fiscal year shall be 83234  
allocated to the School District Shared Resource Account and 83235  
\$9,000,000 in each fiscal year shall be allocated to the 83236  
Catastrophic Expenditures Account. These funds shall be used to 83237  
provide assistance and grants to school districts to enable them 83238  
to remain solvent pursuant to section 3316.20 of the Revised Code. 83239  
Assistance and grants shall be subject to approval by the 83240  
Controlling Board. Any required reimbursements from school 83241  
districts for solvency assistance shall be made to the appropriate 83242  
account in the School District Solvency Assistance Fund (Fund 83243  
5H3). 83244

**Section 40.19. HEAD START PLUS/HEAD START 83245**

There is hereby established the Title IV-A Head Start Program 83246  
to be administered by the Department of Education in accordance 83247  
with an interagency agreement entered into with the Department of 83248  
Job and Family Services under division (A)(2) of section 5101.801 83249  
of the Revised Code. The program shall provide benefits and 83250  
services to TANF eligible individuals pursuant to the requirements 83251  
of section 5101.801 of the Revised Code. Upon approval by the 83252

Department of Job and Family Services, the Department of Education 83253  
shall adopt policies and procedures establishing program 83254  
requirements for eligibility, services, fiscal accountability, and 83255  
other criteria necessary to comply with the provisions of Title 83256  
IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 83257  
301, as amended. 83258

The foregoing appropriation item 200-663, Head Start 83259  
Plus/Head Start, shall be used to reimburse Title IV-A Head Start 83260  
Plus and Title IV-A Head Start programs for services to children. 83261  
The Department of Education shall administer the Title IV-A Head 83262  
Start Plus and Title IV-A Head Start programs in accordance with 83263  
an interagency agreement between the Departments of Education and 83264  
Job and Family Services. Title IV-A Head Start Plus and Title IV-A 83265  
Head Start providers shall meet all requirements as outlined in 83266  
section 3301.311 of the Revised Code. The Department of Education 83267  
shall adopt policies and procedures to establish a procedure for 83268  
approving Title IV-A Head Start Plus and Title IV-A Head Start 83269  
agencies. 83270

Of the foregoing appropriation item 200-663, Head Start 83271  
Plus/Head Start, up to \$57,170,000 in fiscal year 2004 shall be 83272  
used to support the Title IV-A Head Start program. Up to two 83273  
percent of this amount may be used by the Department of Education 83274  
to provide associated program support and technical assistance. 83275

Of the foregoing appropriation item 200-663, Head Start 83276  
Plus/Head Start, up to \$85,000,000 in fiscal year 2005 shall be 83277  
used to support the Title IV-A Head Start Plus initiative. Title 83278  
IV-A Head Start Plus shall provide up to 10,000 slots of full-day, 83279  
full-year programming for children at least three years of age and 83280  
not kindergarten age eligible. The program shall meet the child 83281  
care needs of low-income families who meet eligibility 83282  
requirements established in rules and administrative orders 83283  
adopted by the Ohio Department of Job and Family Services and 83284

provide early education and comprehensive services as provided 83285  
through the Head Start program before the enactment of this act. 83286

Of the foregoing appropriation item 200-663, Head Start 83287  
Plus/Head Start, up to \$23,184,000 in fiscal year 2005 shall be 83288  
used to support the Title IV-A Head Start program. This funding 83289  
shall be used to support up to 4,000 slots of traditional half-day 83290  
center-based, home-based, combination, or locally-designed option, 83291  
Title IV-A Head Start services. 83292

Of the foregoing appropriation line item 200-663, Head Start 83293  
Plus/Head Start, up to \$2,000,000 in fiscal year 2005 may be used 83294  
by the Department of Education to provide associated program 83295  
support and technical assistance. 83296

For purposes of this section, "eligible child" means a child 83297  
who is at least three years of age and not of compulsory school 83298  
age whose family earns not more than 100 per cent of the federal 83299  
poverty level, except as otherwise provided in the following 83300  
paragraph. 83301

The Department of Education, in consultation with Title IV-A 83302  
Head Start agencies and, beginning in July 1, 2004, Title IV-A 83303  
Head Start Plus agencies, shall establish criteria under which 83304  
these agencies may apply to the Department for a waiver to include 83305  
as "eligible children" those children from families earning up to 83306  
the level of eligibility established for child care subsidy by the 83307  
Department of Job and Family Services who otherwise qualify as 83308  
"eligible children" under the preceding paragraph. 83309

In order to serve children whose families receive child care 83310  
subsidy, Title IV-A Head Start agencies may enroll children whose 83311  
families receive child care subsidy from the Ohio Department of 83312  
Job and Family Services. Title IV-A Head Start agencies providing 83313  
full-day, full-year comprehensive services, or otherwise meeting 83314  
the child care needs of working families, may partner with child 83315

care centers or family day care homes or may access child care 83316  
subsidy directly. This provision is to meet the child care needs 83317  
of low-income families who are working, in training or education 83318  
programs, or participating in Ohio Works First approved 83319  
activities. 83320

For fiscal year 2005, the Department of Education shall 83321  
conduct a head count of the number of children served by Head 83322  
Start agencies under this program in December 2003. Any funding 83323  
appropriated to this program which the Department of Education 83324  
projects is not necessary to provide services to children enrolled 83325  
as of that count shall be returned to the Department of Job and 83326  
Family Services for use as child care assistance. 83327

The Department of Education shall provide an annual report to 83328  
the Governor, the Speaker of the House of Representatives, the 83329  
President of the Senate, the State Board of Education, Title IV-A 83330  
Head Start Plus and Title IV-A Head Start providers, and other 83331  
interested parties regarding the Title IV-A Head Start Plus and 83332  
Title IV-A Head Start program and performance indicators as 83333  
outlined by the Department of Education. 83334

JOBS FOR OHIO GRADUATES PROGRAM 83335

Pursuant to an interagency agreement entered into between the 83336  
Department of Job and Family Services and the Department of 83337  
Education, \$1,750,000 from Workforce Investment Act funds (Fund 83338  
3V0), reserved for statewide workforce investment activities, in 83339  
fiscal year 2004 and fiscal year 2005, shall be used to support 83340  
the Jobs for Ohio Graduates programs administered by the 83341  
Department of Education. 83342

AUXILIARY SERVICES REIMBURSEMENT 83343

Notwithstanding section 3317.064 of the Revised Code, if the 83344  
unobligated cash balance is sufficient, the Treasurer of State 83345  
shall transfer \$1,500,000 in fiscal year 2004 within thirty days 83346

after the effective date of this section and \$1,500,000 in fiscal 83347  
year 2005 by August 1, 2004, from the Auxiliary Services Personnel 83348  
Unemployment Compensation Fund to the Department of Education's 83349  
Auxiliary Services Reimbursement Fund (Fund 598). 83350

**Section 40.20.** LOTTERY PROFITS EDUCATION FUND 83351

Appropriation item 200-612, Base Cost Funding (Fund 017), 83352  
shall be used in conjunction with appropriation item 200-501, Base 83353  
Cost Funding (GRF), to provide payments to school districts 83354  
pursuant to Chapter 3317. of the Revised Code. 83355

The Department of Education, with the approval of the 83356  
Director of Budget and Management, shall determine the monthly 83357  
distribution schedules of appropriation item 200-501, Base Cost 83358  
Funding (GRF), and appropriation item 200-612, Base Cost Funding 83359  
(Fund 017). If adjustments to the monthly distribution schedule 83360  
are necessary, the Department of Education shall make such 83361  
adjustments with the approval of the Director of Budget and 83362  
Management. 83363

The Director of Budget and Management shall transfer via 83364  
intrastate transfer voucher the amount appropriated under the 83365  
Lottery Profits Education Fund for appropriation item 200-682, 83366  
Lease Rental Payment Reimbursement, to the General Revenue Fund on 83367  
a schedule determined by the director. These funds shall support 83368  
the appropriation item 230-428, Lease Rental Payments (GRF), of 83369  
the School Facilities Commission. 83370

\* LOTTERY PROFITS TRANSFERS 83371

On or before the first day of May of each fiscal year, the 83372  
Director of Budget and Management shall determine if lottery 83373  
profits transfers will meet the appropriation amounts from the 83374  
Lottery Profits Education Fund. 83375

**Section 40.21.** LOTTERY PROFITS EDUCATION RESERVE FUND 83376

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. At no time shall the amount to the credit of the fund exceed \$75,000,000. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. Notwithstanding any provisions of law to the contrary, for fiscal years 2004 and 2005, there is appropriated to the Department of Education, from the Lottery Profits Education Reserve Fund, an amount necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code. All loan repayments from loans made in fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be deposited into the credit of the Lottery Profits Education Reserve Fund.

(B)(1) On or before July 15, 2003, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2003 exceed \$637,722,600. The amount so certified shall be distributed in fiscal year 2004 pursuant to division (C) of this section.

(2) On or before July 15, 2004, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2004 exceed \$637,900,000. The amount so determined shall be distributed in fiscal year 2005 pursuant to division (D) of this section.

The Director of Budget and Management shall annually certify the amounts determined pursuant to this section to the Speaker of the House of Representatives and the President of the Senate.

(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 83438  
districts pursuant to section 5727.85 of the Revised Code. 83439

**Section 40.23.** \* DISTRIBUTION FORMULAS 83440

The Department of Education shall report the following to the 83441  
Director of Budget and Management, the Legislative Office of 83442  
Education Oversight, and the Legislative Service Commission: 83443

(A) Changes in formulas for distributing state 83444  
appropriations, including administratively defined formula 83445  
factors; 83446

(B) Discretionary changes in formulas for distributing 83447  
federal appropriations; 83448

(C) Federally mandated changes in formulas for distributing 83449  
federal appropriations. 83450

Any such changes shall be reported two weeks prior to the 83451  
effective date of the change. 83452

**Section 40.24.** DISTRIBUTION - SCHOOL DISTRICT SUBSIDY 83453  
PAYMENTS 83454

This section shall not take effect unless the Director of 83455  
Budget and Management adopts an order putting it into effect and 83456  
certifies a copy of the order to the Superintendent of Public 83457  
Instruction and the Controlling Board. 83458

Notwithstanding any other provision of the Revised Code, the 83459  
monthly distribution of payments made to school districts and 83460  
educational service centers pursuant to section 3317.01 of the 83461  
Revised Code for the first six months of each fiscal year shall 83462  
equal, as nearly as possible, six and two-thirds per cent of the 83463  
estimate of the amounts payable for each fiscal year. The monthly 83464  
distribution of payments for the last six months of each fiscal 83465  
year shall equal, as nearly as possible, ten per cent of the final 83466

calculation of the amounts payable to each school district for 83467  
that fiscal year. 83468

The treasurer of each school district or educational service 83469  
center may accrue, in addition to the payments defined in this 83470  
section, to the accounts of the calendar years that end during 83471  
each fiscal year, the difference between the sum of the first six 83472  
months' payments in each fiscal year and the amounts the district 83473  
would have received had the payments been made in, as nearly as 83474  
possible in each fiscal year, twelve equal monthly payments. 83475

Notwithstanding the limitations on the amount of borrowing 83476  
and time of payment provided for in section 133.10 of the Revised 83477  
Code but subject to sections 133.26 and 133.30 of the Revised 83478  
Code, a board of education of a school district may at any time 83479  
between July 1, 2003, and December 31, 2003, or at any time 83480  
between July 1, 2004, and December 31, 2004, borrow money to pay 83481  
any necessary and actual expenses of the school district during 83482  
the last six months of calendar years 2003 and 2004 and in 83483  
anticipation of the receipt of any portion of the payments to be 83484  
received by that district in the first six months of calendar 83485  
years 2004 and 2005 representing the respective amounts accrued 83486  
pursuant to the preceding paragraph, and issue notes to evidence 83487  
that borrowing to mature not later than the thirtieth day of June 83488  
of the calendar year following the calendar year in which such 83489  
amount was borrowed. The principal amount borrowed in the last six 83490  
months of calendar years 2003 or 2004 under this paragraph may not 83491  
exceed the entire amount accrued or to be accrued by the district 83492  
treasurer in those calendar years pursuant to the preceding 83493  
paragraph. The proceeds of the notes shall be used only for the 83494  
purposes for which the anticipated receipts are lawfully 83495  
appropriated by the board of education. No board of education 83496  
shall be required to use the authority granted by this paragraph. 83497  
The receipts so anticipated, and additional amounts from 83498

distributions to the districts in the first six months of calendar 83499  
years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code 83500  
needed to pay the interest on the notes, shall be deemed 83501  
appropriated by the board of education to the extent necessary for 83502  
the payment of the principal of and interest on the notes at 83503  
maturity, and the amounts necessary to make those monthly 83504  
distributions are appropriated from the General Revenue Fund. For 83505  
the purpose of better ensuring the prompt payment of principal of 83506  
and interest on the notes when due, the resolution of the board of 83507  
education authorizing the notes may direct that the amount of the 83508  
receipts anticipated, together with those additional amounts 83509  
needed to pay the interest on the borrowed amounts, shall be 83510  
deposited and segregated, in trust or otherwise, to the extent, at 83511  
the time or times, and in the manner provided in that resolution. 83512  
The borrowing authorized by this section does not constitute debt 83513  
for purposes of section 133.04 of the Revised Code. School 83514  
districts shall be reimbursed by the state for all necessary and 83515  
actual costs to districts arising from this provision, including, 83516  
without limitation, the interest paid on the notes while the notes 83517  
are outstanding. The Department of Education shall adopt rules 83518  
that are not inconsistent with this section for school district 83519  
eligibility and application for reimbursement of such costs. 83520  
Payments of these costs shall be made out of any anticipated 83521  
balances in appropriation items distributed under Chapter 3317. of 83522  
the Revised Code. The department shall submit all requests for 83523  
reimbursement under these provisions to the Controlling Board for 83524  
approval. 83525

During the last six months of each calendar year, instead of 83526  
deducting the amount the Superintendent of Public Instruction 83527  
would otherwise deduct from a school district's or educational 83528  
service center's state aid payments in accordance with the 83529  
certifications made for such year pursuant to sections 3307.56 and 83530  
3309.51 of the Revised Code, the superintendent shall deduct an 83531

amount equal to forty per cent of the amount so certified. The 83532  
secretaries of the retirement systems shall compute the 83533  
certifications for the ensuing year under such sections as if the 83534  
entire amounts certified as due in the calendar year ending the 83535  
current fiscal year, but not deducted pursuant to this paragraph, 83536  
had been deducted and paid in that calendar year. During the first 83537  
six months of the ensuing calendar year, in addition to deducting 83538  
the amounts the Superintendent of Public Instruction is required 83539  
to deduct under such sections during such period, the 83540  
superintendent shall deduct from a district's or educational 83541  
service center's state aid payments an additional amount equal to 83542  
the amount that was certified as due from the district for the 83543  
calendar year that ends during the fiscal year, but that was not 83544  
deducted because of this paragraph. The superintendent's 83545  
certifications to the Director of Budget and Management during the 83546  
first six months of the calendar year shall reflect such 83547  
additional deduction. 83548

**Section 40.25. EDUCATIONAL SERVICE CENTERS FUNDING** 83549

(A) As used in this section: 83550

(1) "Internet- or computer-based community school" has the 83551  
same meaning as in section 3314.02 of the Revised Code. 83552

(2) "Service center ADM" has the same meaning as in section 83553  
3317.11 of the Revised Code. 83554

(B) Notwithstanding division (F) of section 3317.11 of the 83555  
Revised Code, no funds shall be provided under that division to an 83556  
educational service center in either fiscal year for any pupils of 83557  
a city or exempted village school district unless an agreement to 83558  
provide services under section 3313.843 of the Revised Code was 83559  
entered into by January 1, 1997, except that funds shall be 83560  
provided to an educational service center for any pupils of a city 83561  
school district if the agreement to provide services was entered 83562

into within one year of the date upon which such district changed 83563  
from a local school district to a city school district. 83564

(C) Notwithstanding any provision of the Revised Code to the 83565  
contrary, an educational service center that sponsors a community 83566  
school under Chapter 3314. of the Revised Code in either fiscal 83567  
year may include the students of that community school in its 83568  
service center ADM for purposes of state funding under division 83569  
(F) of section 3317.11 of the Revised Code, unless the community 83570  
school is an Internet- or computer-based community school. A 83571  
service center shall include the community school students in its 83572  
service center ADM only to the extent that the students are not 83573  
already so included, and only in accordance with guidelines issued 83574  
by the Department of Education. If the students of a community 83575  
school sponsored by an educational service center are included in 83576  
the service center ADM of another educational service center, 83577  
those students shall be removed from the service center ADM of the 83578  
other educational service center and added to the service center 83579  
ADM of the community school's sponsoring service center. The 83580  
General Assembly authorizes this procedure as an incentive for 83581  
educational service centers to take over sponsorship of community 83582  
schools from the State Board of Education as the State Board's 83583  
sponsorship is phased out in accordance with Sub. H.B. 364 of the 83584  
124th General Assembly. No student of an Internet- or 83585  
computer-based community school shall be counted in the service 83586  
center ADM of any educational service center. The Department shall 83587  
pay educational service centers under division (F) of section 83588  
3317.11 of the Revised Code for community school students included 83589  
in their service center ADMs under this division only if 83590  
sufficient funds earmarked within appropriation item 200-501, Base 83591  
Cost Funding, for payments under that division remain after first 83592  
paying for students attributable to their local and client school 83593  
districts, in accordance with divisions (B) and (D) of this 83594  
section. 83595

(D) If insufficient funds are earmarked within appropriation 83596  
item 200-501, Base Cost Funding, for payments under division (F) 83597  
of section 3317.11 of the Revised Code and division (C) of this 83598  
section in fiscal year 2004 or fiscal year 2005, the Department 83599  
shall prioritize the distribution of the earmarked funds as 83600  
follows: 83601

(1) The Department shall first distribute to each educational 83602  
service center the per-student amount specified in division (F) of 83603  
section 3317.11 of the Revised Code for each student in its 83604  
service center ADM attributable to the local school districts 83605  
within the service center's territory. 83606

(2) The Department shall distribute the remaining funds in 83607  
each fiscal year to each educational service center for the 83608  
students in its service center ADM attributable to each city and 83609  
exempted village school district that had entered into an 83610  
agreement with an educational service center for that fiscal year 83611  
under section 3313.843 of the Revised Code by January 1, 1997, up 83612  
to the per-student amount specified in division (F) of section 83613  
3317.11 of the Revised Code. If insufficient funds remain to pay 83614  
each service center the full amount specified in division (F) of 83615  
that section for each such student, the Department shall 83616  
distribute the remaining funds to each service center 83617  
proportionally, on a per-student basis for each such student, 83618  
unless that proportional per-student amount exceeds the amount 83619  
specified in division (F)(1) of that section. In that case, the 83620  
Department shall distribute the per-student amount specified in 83621  
division (F)(1) of that section to each service center for each 83622  
such student and shall distribute the remainder proportionally, on 83623  
a per-student basis for each such student, to the multi-county 83624  
service centers described in division (F)(2) of that section. 83625

(3) If the Department has paid each service center under 83626  
divisions (D)(1) and (2) of this section, the full amount 83627

specified in division (F) of section 3317.11 of the Revised Code 83628  
for each student attributable to its local school districts and 83629  
its client school districts described in division (D)(2) of this 83630  
section the Department shall distribute any remaining funds 83631  
proportionally, on a per-student basis, to each service center 83632  
that sponsors a community school, other than an Internet- or 83633  
computer-based community school, for the students included in the 83634  
service center ADM under division (C) of this section. These 83635  
payments shall not exceed per student the amount specified in 83636  
division (F) of section 3317.11 of the Revised Code. 83637

**Section 40.26.** \* For the school year commencing July 1, 2003, 83638  
or the school year commencing July 1, 2004, or both, the 83639  
Superintendent of Public Instruction may waive for the board of 83640  
education of any school district the ratio of teachers to pupils 83641  
in kindergarten through fourth grade required under paragraph 83642  
(A)(3) of rule 3301-35-05 of the Administrative Code if the 83643  
following conditions apply: 83644

(A) The board of education requests the waiver. 83645

(B) After the Department of Education conducts an on-site 83646  
evaluation of the district related to meeting the required ratio, 83647  
the board of education demonstrates to the satisfaction of the 83648  
Superintendent of Public Instruction that providing the facilities 83649  
necessary to meet the required ratio during the district's regular 83650  
school hours with pupils in attendance would impose an extreme 83651  
hardship on the district. 83652

(C) The board of education provides assurances that are 83653  
satisfactory to the Superintendent of Public Instruction that the 83654  
board will act in good faith to meet the required ratio as soon as 83655  
possible. 83656

**Section 40.27.** PRIVATE TREATMENT FACILITY PILOT PROJECT 83657

(A) As used in this section:	83658
(1) The following are "participating residential treatment centers":	83659 83660
(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2004 or fiscal year 2005 or both, the Department pays through appropriation item 470-401, Care and Custody;	83661 83662 83663 83664 83665 83666
(b) Abraxas, in Shelby;	83667
(c) Paint Creek, in Bainbridge;	83668
(d) Act One, in Akron;	83669
(e) Friars Club, in Cincinnati.	83670
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	83671 83672 83673
(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.	83674 83675
(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.	83676 83677 83678 83679 83680
(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.	83681 83682 83683
(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	83684 83685 83686

section shall be enrolled in an approved educational program 83687  
located in or near the facility. Approval of the educational 83688  
program shall be contingent upon compliance with the criteria 83689  
established for such programs by the Department of Education. The 83690  
educational program shall be provided by a school district or 83691  
educational service center, or by the residential facility itself. 83692  
Maximum flexibility shall be given to the residential treatment 83693  
facility to determine the provider. In the event that a voluntary 83694  
agreement cannot be reached and the residential facility does not 83695  
choose to provide the educational program, the educational service 83696  
center in the county in which the facility is located shall 83697  
provide the educational program at the treatment center to 83698  
children under twenty-two years of age residing in the treatment 83699  
center. 83700

(C) Any school district responsible for tuition for a 83701  
residential child shall, notwithstanding any conflicting provision 83702  
of the Revised Code regarding tuition payment, pay tuition for the 83703  
child for fiscal year 2004 and fiscal year 2005 to the education 83704  
program provider and in the amount specified in this division. If 83705  
there is no school district responsible for tuition for a 83706  
residential child and if the participating residential treatment 83707  
center to which the child is assigned is located in the city, 83708  
exempted village, or local school district that, if the child were 83709  
not a resident of that treatment center, would be the school 83710  
district where the child is entitled to attend school under 83711  
sections 3313.64 and 3313.65 of the Revised Code, that school 83712  
district, notwithstanding any conflicting provision of the Revised 83713  
Code, shall pay tuition for the child for fiscal year 2004 and 83714  
fiscal year 2005 under this division unless that school district 83715  
is providing the educational program to the child under division 83716  
(B) of this section. 83717

A tuition payment under this division shall be made to the 83718

school district, educational service center, or residential 83719  
treatment facility providing the educational program to the child. 83720

The amount of tuition paid shall be: 83721

(1) The amount of tuition determined for the district under 83722  
division (A) of section 3317.08 of the Revised Code; 83723

(2) In addition, for any student receiving special education 83724  
pursuant to an individualized education program as defined in 83725  
section 3323.01 of the Revised Code, a payment for excess costs. 83726  
This payment shall equal the actual cost to the school district, 83727  
educational service center, or residential treatment facility of 83728  
providing special education and related services to the student 83729  
pursuant to the student's individualized education program, minus 83730  
the tuition paid for the child under division (C)(1) of this 83731  
section. 83732

A school district paying tuition under this division shall 83733  
not include the child for whom tuition is paid in the district's 83734  
average daily membership certified under division (A) of section 83735  
3317.03 of the Revised Code. 83736

(D) In each of fiscal years 2004 and 2005, the Department of 83737  
Education shall reimburse, from appropriations made for the 83738  
purpose, a school district, educational service center, or 83739  
residential treatment facility, whichever is providing the 83740  
service, that has demonstrated that it is in compliance with the 83741  
funding criteria for each served child for whom a school district 83742  
must pay tuition under division (C) of this section. The amount of 83743  
the reimbursement shall be the formula amount specified in section 83744  
3317.022 of the Revised Code, except that the department shall 83745  
proportionately reduce this reimbursement if sufficient funds are 83746  
not available to pay this amount to all qualified providers. 83747

(E) Funds provided to a school district, educational service 83748  
center, or residential treatment facility under this section shall 83749

be used to supplement, not supplant, funds from other public 83750  
sources for which the school district, service center, or 83751  
residential treatment facility is entitled or eligible. 83752

(F) The Department of Education shall track the utilization 83753  
of funds provided to school districts, educational service 83754  
centers, and residential treatment facilities under this section 83755  
and monitor the effect of the funding on the educational programs 83756  
they provide in participating residential treatment facilities. 83757  
The department shall monitor the programs for educational 83758  
accountability. 83759

**Section 40.28.** SCHOOL DISTRICT PARTICIPATION IN NATIONAL 83760  
ASSESSMENT OF EDUCATION PROGRESS 83761

The General Assembly intends for the Superintendent of Public 83762  
Instruction to provide for school district participation in the 83763  
administration of the National Assessment of Education Progress in 83764  
accordance with section 3301.27 of the Revised Code. Each school 83765  
and school district selected for participation by the 83766  
Superintendent of Public Instruction shall participate. 83767

**Section 40.29.** Notwithstanding division (C)(1) of section 83768  
3313.975 of the Revised Code, in addition to students in 83769  
kindergarten through third grade, initial scholarships may be 83770  
awarded to fourth, fifth, sixth, seventh, and eighth grade 83771  
students in fiscal year 2004 and in fiscal year 2005. 83772

**Section 40.30.** STATEMENT OF STATE SHARE PERCENTAGE FOR BASE 83773  
COST AND PARITY AID FUNDING 83774

Pursuant to division (D)(3) of section 3317.012 of the 83775  
Revised Code, and based on the most recent data available prior to 83776  
the enactment of this act, the General Assembly has determined 83777  
that the state share percentage of base cost and parity aid 83778

funding for the update year (fiscal year 2002) is 49.0%. This is 83779  
the target percentage for fiscal year 2004 and fiscal year 2005 83780  
that the General Assembly shall use to fulfill its obligation 83781  
under division (D)(4) of section 3317.012 of the Revised Code. 83782

Pursuant to division (D)(4) of section 3317.012 of the 83783  
Revised Code, and based on the most recent data available prior to 83784  
the enactment of this act, the General Assembly has determined 83785  
that the state share percentage of base cost and parity aid 83786  
funding for fiscal year 2004 is 46.5% and for fiscal year 2005 is 83787  
48.6%. This determination fulfills the General Assembly's 83788  
obligation under that division for fiscal year 2004 and fiscal 83789  
year 2005. 83790

**Section 40.31.** DEPARTMENT OF EDUCATION APPROPRIATION 83791  
TRANSFERS FOR STUDENT ASSESSMENT 83792

In fiscal year 2004 and fiscal year 2005, if the 83793  
Superintendent of Public Instruction determines that additional 83794  
funds are needed to fully fund the requirements of Am. Sub. S.B. 1 83795  
of the 124th General Assembly for assessments of student 83796  
performance, the Superintendent of Public Instruction may 83797  
recommend the reallocation of unspent and unencumbered 83798  
appropriations within the Department of Education to the General 83799  
Revenue Fund appropriation item 200-437, Student Assessment, to 83800  
the Director of Budget and Management. If the Director of Budget 83801  
and Management determines that such a reallocation is required, 83802  
the Director of Budget and Management may transfer unspent and 83803  
unencumbered funds within the Department of Education as necessary 83804  
to appropriation item 200-437, Student Assessment. 83805

**Section 40.34a.** The amendments by this act to division (C)(4) 83806  
of section 3313.981, division (B)(2)(e) of section 3314.08, 83807  
division (A)(4) of section 3317.023, and division (A)(3) of 83808

section 3317.03 of the Revised Code shall not apply in fiscal year 83809  
2004. In fiscal year 2004, the Department of Education shall 83810  
implement those divisions as if they accounted for one-fourth of 83811  
joint vocational school district students, as they did prior to 83812  
the effective date of those amendments. Those divisions, as 83813  
amended by this act to reduce the percentage of joint vocational 83814  
school district students accounted for from one-fourth to ten per 83815  
cent, shall apply beginning in fiscal year 2005. 83816

**Section 40.35.** (A) As used in this section: 83817

(1) "IEP" has the same meaning as in section 3314.08 of the 83818  
Revised Code. 83819

(2) "SBH student" means a student receiving special education 83820  
and related services for severe behavior handicap conditions 83821  
pursuant to an IEP. 83822

(B) This section applies only to a community school 83823  
established under Chapter 3314. of the Revised Code that in each 83824  
of fiscal years 2004 and 2005 enrolls a number of SBH students 83825  
equal to at least fifty per cent of the total number of students 83826  
enrolled in the school in the applicable fiscal year. 83827

(C) In addition to any payments made under section 3314.08 of 83828  
the Revised Code, in each of fiscal years 2004 and 2005 the 83829  
Department of Education shall pay to a community school a subsidy 83830  
equal to the difference between the aggregate amount calculated 83831  
and paid in that fiscal year to the community school for special 83832  
education and related services additional weighted costs for the 83833  
SBH students enrolled in the school and the aggregate amount that 83834  
would have been calculated for the school for special education 83835  
and related services additional weighted costs for those same 83836  
students in fiscal year 2001. If the difference is a negative 83837  
number, the amount of the subsidy shall be zero. 83838

(D) The amount of any subsidy paid to a community school 83839  
under this section shall not be deducted from any moneys 83840  
calculated under Chapter 3317. of the Revised Code for payment to 83841  
a school district in which any of its students are entitled to 83842  
attend school under section 3313.64 or 3313.65 of the Revised 83843  
Code. 83844

The amount of any subsidy paid to a community school under 83845  
this section shall be paid from the amount appropriated to the 83846  
Department of Education in appropriation item 200-501, Base Cost 83847  
Funding. 83848

**Section 40.36.** (A) As used in this section: 83849

(1) "Entitled to attend school" means entitled to attend 83850  
school in a school district under section 3313.64 and 3313.65 of 83851  
the Revised Code. 83852

(2) "Formula ADM" and "category six special education ADM" 83853  
have the same meanings as in section 3317.02 of the Revised Code. 83854

(3) "Individualized education program" has the same meaning 83855  
as in section 3323.01 of the Revised Code. 83856

(4) "Parent" has the same meaning as in section 3313.64 of 83857  
the Revised Code. 83858

(5) "Qualified special education child" is a child for whom 83859  
all of the following conditions apply: 83860

(a) The school district in which the child is entitled to 83861  
attend school has identified the child as autistic; 83862

(b) The school district in which the child is entitled to 83863  
attend school has developed an individualized education program 83864  
under Chapter 3323. of the Revised Code for the child; 83865

(c) The child either: 83866

(i) Was enrolled in the school district in which the child is 83867

entitled to attend school in any grade from preschool through 83868  
twelve in the school year prior to the year in which a scholarship 83869  
under this section is first sought for the child; 83870

(ii) Is eligible to enter school in any grade preschool 83871  
through twelve in the school district in which the child is 83872  
entitled to attend school in the school year in which a 83873  
scholarship under this section is first sought for the child. 83874

(6) "Registered private provider" means a nonpublic school or 83875  
other nonpublic entity that has been approved by the Department of 83876  
Education to participate in the program established under this 83877  
section. 83878

(B) There is hereby established the Pilot Project Special 83879  
Education Scholarship Program. Under the program, in fiscal years 83880  
2004 and 2005, the Department of Education shall pay a scholarship 83881  
to the parent of each qualified special education child upon 83882  
application of that parent pursuant to procedures and deadlines 83883  
established by rule of the State Board of Education. Each 83884  
scholarship shall be used only to pay tuition for the child on 83885  
whose behalf the scholarship is awarded to attend a special 83886  
education program that implements the child's individualized 83887  
education program and that is operated by a school district other 83888  
than the school district in which the child is entitled to attend 83889  
school or by another public entity, to either of which under law 83890  
the parent is required to pay tuition on behalf of the child, or 83891  
by a registered private provider. Each scholarship shall be in an 83892  
amount not to exceed the lesser of the tuition charged for the 83893  
child by the special education program or fifteen thousand 83894  
dollars. The purpose of the scholarship is to permit the parent of 83895  
a qualified special education child the choice to send the child 83896  
to a special education program, instead of, or in addition to, the 83897  
one operated by or for the school district in which the child is 83898  
entitled to attend school, to receive the services prescribed in 83899

the child's individualized education program. A scholarship under 83900  
this section shall not be awarded to the parent of a child who 83901  
attends a public special education program under a contract, 83902  
compact, or other bilateral agreement between the school district 83903  
in which the child is entitled to attend school and another school 83904  
district or other public provider or to the parent of a child who 83905  
attends a community school established under Chapter 3314. of the 83906  
Revised Code. A child attending a special education program with a 83907  
scholarship under this section shall continue to be entitled to 83908  
transportation to and from that program in the manner prescribed 83909  
by law. 83910

(C)(1) Notwithstanding anything to the contrary in the 83911  
Revised Code, a child for whom a scholarship is awarded under this 83912  
section shall be counted in the formula ADM and the category six 83913  
special education ADM of the district in which the child is 83914  
entitled to attend school and not in the formula ADM and the 83915  
category six special education ADM of any other school district. 83916

(2) In each fiscal year, the Department shall deduct from the 83917  
amounts paid to each school district under Chapter 3317. of the 83918  
Revised Code, and, if necessary, sections 321.24 and 323.156 of 83919  
the Revised Code, the aggregate amount of scholarships awarded 83920  
under this section for qualified special education children 83921  
included in the formula ADM and category six special education ADM 83922  
of that school district as provided in division (C)(1) of this 83923  
section. The scholarships deducted shall be considered as an 83924  
approved special education and related services expense for the 83925  
purpose of the school district's compliance with division (C)(5) 83926  
of section 3317.022 of the Revised Code. 83927

(3) From time to time, the Department shall make a payment to 83928  
the parent of each qualified special education child for whom a 83929  
scholarship has been awarded under this section. The scholarship 83930  
amount shall be proportionately reduced in the case of any such 83931

child who is not enrolled in the special education program for 83932  
which a scholarship was awarded under this section for the entire 83933  
school year. 83934

(D) A scholarship shall not be paid to a parent for payment 83935  
of tuition owed to a nonpublic entity unless that entity is a 83936  
registered private provider. The Department shall approve entities 83937  
that meet the standards established by rule of the State Board for 83938  
the program established under this section. 83939

(E) The State Board shall adopt rules in accordance with 83940  
Chapter 119. of the Revised Code prescribing procedures necessary 83941  
to implement this section, including, but not limited to, 83942  
procedures and deadlines for parents to apply for scholarships, 83943  
standards for registered private providers, and procedures for 83944  
approval of entities as registered private providers. The Board 83945  
shall adopt the rules so that the program established under this 83946  
section is operational by January 1, 2004. 83947

(F) The Legislative Office of Education Oversight shall 83948  
conduct a formative evaluation of the program established under 83949  
this section and shall report its findings to the General Assembly 83950  
not later than March 1, 2005. In conducting the evaluation, the 83951  
Office shall to the extent possible gather comments from parents 83952  
who have been awarded scholarships under the program, school 83953  
district officials, representatives of registered private 83954  
providers, educators, and representatives of educational 83955  
organizations for inclusion in the report required under this 83956  
section. The report required under this section is not subject to 83957  
the provision prescribed in the last paragraph of section 3301.68 83958  
of the Revised Code. 83959

**Section 40.37.** (A) Not later than January 31, 2004, the 83960  
department of education shall recommend to the general assembly, 83961  
in consultation with stakeholders, plans for an Ohio Regional 83962

Education Delivery System to provide services and technical 83963  
assistance to school districts. The recommendations shall address 83964  
how the system should provide services currently provided by 83965  
educational service centers, regional professional development 83966  
centers, special education regional resource centers, area media 83967  
centers, school improvement facilitators, Ohio SchoolNet regional 83968  
services, data acquisition sites, educational technology centers, 83969  
and other regional service providers. The department shall also 83970  
recommend that the system provide services and technical 83971  
assistance to chartered nonpublic schools to assist these schools 83972  
in meeting Ohio's statutory and administrative code provisions 83973  
applicable to such schools. However, the recommendations shall 83974  
specify that in providing services to chartered nonpublic schools, 83975  
the system is not required to create additional services or 83976  
technical assistance beyond those provided to school districts. 83977

(B) The regional service centers recommended under the Ohio 83978  
Regional Education Delivery System shall be distributed 83979  
geographically throughout the state. 83980

(C) The department, in consultation with stakeholders, shall 83981  
recommend an accountability system for the Ohio Regional Education 83982  
Delivery System. The recommended accountability system shall 83983  
include minimum standards for operation and the provision of 83984  
services. It shall also include benchmarks against performance 83985  
measures based on each of the following: 83986

(1) Student achievement; 83987

(2) The effectiveness and efficiency of service delivery; 83988

(3) The quality of implementation of state initiatives; 83989

(4) Satisfaction expressed by school districts and other 83990  
entities that use the Ohio Regional Education Delivery System with 83991  
the quality of the system. 83992

(D) If the Department and stakeholders are unable to reach an 83993

agreement on plans for the Ohio Regional Education Delivery System 83994  
by January 31, 2004, as required by division (A) of this section, 83995  
the Department shall develop such plans on its own and recommend 83996  
them to the General Assembly not later than February 15, 2004. 83997

**Section 40.38.** (A) There is hereby created the Head Start 83998  
Partnership Study Council consisting of the following seventeen 83999  
members: 84000

(1) Two employees of the Department of Job and Family 84001  
Services appointed by the Director of Job and Family Services; 84002

(2) Two employees of the Department of Education appointed by 84003  
the Superintendent of Public Instruction; 84004

(3) Three members of the House of Representatives, not more 84005  
than two of whom are members of the same political party, 84006  
appointed by the Speaker of the House of Representatives; 84007

(4) Three members of the Senate, not more two of whom are 84008  
members of the same political party, appointed by the President of 84009  
the Senate; 84010

(5) Two representatives of Head Start agencies appointed by 84011  
the Ohio Head Start Association; 84012

(6) Two representatives of child care providers appointed by 84013  
the Ohio Association of Child Care Providers; 84014

(7) One representative appointed by the Ohio Day Care 84015  
Council; 84016

(8) One representative appointed by the County Commissioner's 84017  
Association of Ohio; 84018

(9) One representative appointed by the Association of 84019  
Directors of County Departments of Job and Family Services. 84020

Initial appointments of members shall be made not later than 84021  
September 1, 2003. Vacancies in any of those appointments shall be 84022

filled in the same manner as original appointments. 84023

The Speaker of the House of Representatives and the President 84024  
of the Senate jointly shall appoint the chairperson of the 84025  
Council. 84026

Members of the Council shall serve without compensation. 84027

(B) In fiscal year 2004, the Council shall advise the 84028  
Departments of Education and Job and Family Services in planning 84029  
for the implementation of the Title IV-A Head Start Plus Program 84030  
as established under sections 3301.33 and 3301.35 of the Revised 84031  
Code and shall report to the General Assembly on the plans for 84032  
that program by December 31, 2003. 84033

(C) In fiscal year 2005, the Council shall monitor the 84034  
implementation of the Title IV-A Head Start Plus Program as 84035  
established under sections 3301.33 and 3301.35 of the Revised Code 84036  
and provide advice to the Departments of Education and Job and 84037  
Family Services in that implementation. 84038

(D) Unless reauthorized by the General Assembly, the Council 84039  
shall cease to exist on July 1, 2005. 84040

**Section 40.39.** (A) In the 2004-2005 and 2005-2006 school 84041  
years, before a student identified with disabilities may begin 84042  
receiving services for the first time under an individualized 84043  
education program, as defined in section 3323.01 of the Revised 84044  
Code, the school district in which that student is enrolled shall 84045  
require the student to undergo a comprehensive eye examination 84046  
performed either by an optometrist licensed under Chapter 4725. of 84047  
the Revised Code or by a physician authorized under Chapter 4731. 84048  
of the Revised Code to practice medicine and surgery or 84049  
osteopathic medicine and surgery who is comprehensively trained 84050  
and educated in the treatment of the human eye, eye disease, or 84051  
comprehensive vision services. 84052

(B) The superintendent of each school district or the superintendent's designee may determine fulfillment of the requirement prescribed in division (A) of this section based on any special circumstances of the student, the student's parent, guardian, or family that may prevent the student from undergoing the eye examination prior to beginning special education services.

(C) Neither the state nor any school district shall be responsible for paying for the eye examination required by this section.

(D) The Director of Health shall, in accordance with Chapter 119. of the Revised Code, adopt a rule that defines for purposes of this section "comprehensively trained and educated in the treatment of the human eye, eye disease, or comprehensive vision services" and shall adopt any other rules necessary for the implementation of this section.

**Section 40.40. TRANSITIONAL AID**

The Department of Education shall distribute earmarked funds within appropriation item 200-501, Base Cost Funding, for transitional aid in each fiscal year to each city, local, and exempted village school district that experiences a decrease in its SF-3 funding plus charge-off supplement for the current fiscal year in excess of five per cent of its SF-3 funding plus charge-off supplement for the previous fiscal year. The Department shall distribute to each such district an amount to reduce the decrease to five per cent of the district's SF-3 funding plus charge-off supplement for the previous fiscal year. For this purpose, "SF-3 funding plus charge-off supplement" equals the sum of the following:

(A) Base cost funding under division (A) of section 3317.022 of the Revised Code;

(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;	84083 84084 84085
(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;	84086 84087
(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;	84088 84089
(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;	84090 84091
(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	84092 84093 84094
(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;	84095 84096
(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;	84097 84098
(I) Equity aid under section 3317.0213 of the Revised Code;	84099
(J) Transportation under division (D) of section 3317.022 of the Revised Code;	84100 84101
(K) The state aid guarantee under section 3317.0212 of the Revised Code;	84102 84103
(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	84104 84105
(M) Parity aid under section 3317.0217 of the Revised Code;	84106
(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	84107 84108
(O) The charge-off supplement under section 3317.0216 of the Revised Code.	84109 84110

Section 41. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK				84111
COMMISSION				84112
General Revenue Fund				84113
GRF 374-100 Personal Services	\$	1,300,000	\$ 1,300,000	84114
GRF 374-200 Maintenance	\$	800,000	\$ 800,000	84115
GRF 374-300 Equipment	\$	97,500	\$ 97,500	84116
GRF 374-401 Statehouse News Bureau	\$	260,000	\$ 260,000	84117
GRF 374-402 Ohio Government	\$	762,146	\$ 762,146	84118
Telecommunications				
Studio				
GRF 374-403 Ohio SONET	\$	2,000,000	\$ 2,000,000	84119
GRF 374-404 Telecommunications	\$	3,962,199	\$ 3,864,269	84120
Operating Subsidy				
TOTAL GRF General Revenue Fund	\$	9,181,845	\$ 9,083,915	84121
General Services Fund Group				84122
4F3 374-603 Affiliate Services	\$	3,067,447	\$ 3,067,447	84123
4T2 374-605 Government	\$	150,000	\$ 150,000	84124
Television/Telecommunications				
Operating				
TOTAL GSF General Services				84125
Fund Group	\$	3,217,447	\$ 3,217,447	84126
TOTAL ALL BUDGET FUND GROUPS	\$	12,399,292	\$ 12,301,362	84127
STATEHOUSE NEWS BUREAU				84128
The foregoing appropriation item 374-401, Statehouse News				84129
Bureau, shall be used solely to support the operations of the Ohio				84130
Statehouse News Bureau.				84131
OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO				84132
The foregoing appropriation item 374-402, Ohio Government				84133
Telecommunications Studio, shall be used solely to support the				84134
operations of the Ohio Government Telecommunications Studio.				84135

OHIO SONET				84136
The foregoing appropriation item 374-403, Ohio SONET, shall				84137
be used by the Ohio Educational Telecommunications Network				84138
Commission to pay monthly operating expenses and maintenance of				84139
the television and radio transmission infrastructure.				84140
TELECOMMUNICATIONS OPERATING SUBSIDY				84141
The foregoing appropriation item 374-404, Telecommunications				84142
Operating Subsidy, shall be distributed by the Ohio Educational				84143
Telecommunications Network Commission to Ohio's qualified public				84144
educational television stations, radio reading services, and				84145
educational radio stations to support their operations. The funds				84146
shall be distributed pursuant to an allocation developed by the				84147
Ohio Educational Telecommunications Network Commission.				84148
<b>Section 42. ELC OHIO ELECTIONS COMMISSION</b>				84149
General Revenue Fund				84150
GRF 051-321 Operating Expenses	\$	294,857	\$ 294,857	84151
TOTAL GRF General Revenue Fund	\$	294,857	\$ 294,857	84152
State Special Revenue Fund Group				84153
4P2 051-601 Ohio Elections				84154
Commission Fund	\$	312,716	\$ 321,766	84155
TOTAL SSR State Special				84156
Revenue Fund Group	\$	312,716	\$ 321,766	84157
TOTAL ALL BUDGET FUND GROUPS	\$	607,573	\$ 616,623	84158
<b>Section 43. FUN STATE BOARD OF EMBALMERS AND FUNERAL</b>				84160
DIRECTORS				84161
General Services Fund Group				84162
4K9 881-609 Operating Expenses	\$	563,639	\$ 594,870	84163
TOTAL GSF General Services				84164
Fund Group	\$	563,639	\$ 594,870	84165

TOTAL ALL BUDGET FUND GROUPS	\$	563,639	\$	594,870	84166
<b>Section 44.</b> ERB STATE EMPLOYMENT RELATIONS BOARD					84168
General Revenue Fund					84169
GRF 125-321 Operating Expenses	\$	3,268,338	\$	3,268,338	84170
TOTAL GRF General Revenue Fund	\$	3,268,338	\$	3,268,338	84171
General Services Fund Group					84172
572 125-603 Training and Publications	\$	75,541	\$	75,541	84173
TOTAL GSF General Services Fund Group	\$	75,541	\$	75,541	84174
TOTAL ALL BUDGET FUND GROUPS	\$	3,343,879	\$	3,343,879	84176
<b>Section 45.</b> ENG STATE BOARD OF ENGINEERS AND SURVEYORS					84178
General Services Fund Group					84179
4K9 892-609 Operating Expenses	\$	999,150	\$	1,041,369	84180
TOTAL GSF General Services Fund Group	\$	999,150	\$	1,041,369	84182
TOTAL ALL BUDGET FUND GROUPS	\$	999,150	\$	1,041,369	84183
<b>Section 46.</b> EPA ENVIRONMENTAL PROTECTION AGENCY					84185
General Revenue Fund					84186
GRF 715-403 Clean Ohio	\$	788,985	\$	788,985	84187
GRF 715-501 Local Air Pollution Control	\$	1,119,878	\$	1,091,882	84188
GRF 717-321 Surface Water	\$	9,333,376	\$	9,358,950	84189
GRF 718-321 Groundwater	\$	1,195,001	\$	1,163,554	84190
GRF 719-321 Air Pollution Control	\$	2,543,260	\$	2,543,260	84191
GRF 721-321 Drinking Water	\$	2,713,032	\$	2,713,032	84192
GRF 723-321 Hazardous Waste	\$	110,184	\$	107,284	84193
GRF 724-321 Pollution Prevention	\$	765,137	\$	745,002	84194
GRF 725-321 Laboratory	\$	1,290,237	\$	1,293,971	84195

GRF 726-321	Corrective Actions	\$	1,253,593	\$	1,255,080	84196
TOTAL GRF	General Revenue Fund	\$	21,112,683	\$	21,061,000	84197
General Services Fund Group						84198
199 715-602	Laboratory Services	\$	1,042,081	\$	1,045,654	84199
219 715-604	Central Support	\$	15,239,297	\$	15,544,407	84200
Indirect						
4A1 715-640	Operating Expenses	\$	3,308,758	\$	3,369,731	84201
TOTAL GSF	General Services					84202
Fund Group		\$	19,590,136	\$	19,959,792	84203
Federal Special Revenue Fund Group						84204
3F2 715-630	Revolving Loan Fund -	\$	80,000	\$	80,000	84205
Operating						
3F3 715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,326,434	84206
and Response						
3F4 715-633	Water Quality	\$	737,850	\$	712,850	84207
Management						
3F5 715-641	Nonpoint Source	\$	7,090,002	\$	7,155,000	84208
Pollution Management						
3J1 715-620	Urban Stormwater	\$	850,000	\$	956,001	84209
3K2 715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992	84210
3K4 715-634	DOD Monitoring and	\$	1,462,173	\$	1,450,333	84211
Oversight						
3K6 715-639	Remedial Action Plan	\$	416,000	\$	385,001	84212
3N1 715-655	Pollution Prevention	\$	10,172	\$	0	84213
Grants						
3N4 715-657	DOE Monitoring and	\$	3,362,932	\$	3,427,442	84214
Oversight						
3V7 715-606	Agencywide Grants	\$	100,268	\$	0	84215
352 715-611	Wastewater Pollution	\$	252,000	\$	265,002	84216
353 715-612	Public Water Supply	\$	2,909,865	\$	2,916,174	84217
354 715-614	Hazardous Waste	\$	4,195,192	\$	4,203,891	84218
Management - Federal						

357	715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501	84219
362	715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874	84220
TOTAL FED Federal Special Revenue							84221
Fund Group			\$	33,934,302	\$	33,705,495	84222
State Special Revenue Fund Group							84223
3T3	715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777	84224
4J0	715-638	Underground Injection Control	\$	379,488	\$	394,385	84225
4K2	715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002	84226
4K3	715-649	Solid Waste	\$	14,286,500	\$	14,698,987	84227
4K4	715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181	84228
4K5	715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946	84229
4P5	715-654	Cozart Landfill	\$	146,792	\$	149,728	84230
4R5	715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000	84231
4R9	715-658	Voluntary Action Program	\$	603,435	\$	795,671	84232
4T3	715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001	84233
4U7	715-660	Construction & Demolition Debris	\$	220,000	\$	220,000	84234
5H4	715-664	Groundwater Support	\$	1,768,661	\$	1,797,036	84235
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	84236
5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174	84237
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000	84238
503	715-621	Hazardous Waste Facility Management	\$	11,051,591	\$	11,465,671	84239
503	715-662	Hazardous Waste	\$	566,350	\$	576,619	84240

		Facility Board					
505	715-623	Hazardous Waste	\$	10,862,544	\$	11,557,987	84241
		Cleanup					
505	715-674	Clean Ohio	\$	999,896	\$	1,179,249	84242
		Environmental Review					
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075	84243
542	715-671	Risk Management	\$	142,087	\$	146,188	84244
		Reporting					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	84245
		Education					
602	715-626	Motor Vehicle	\$	1,444,464	\$	1,437,398	84246
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114	84247
660	715-629	Infectious Waste	\$	160,000	\$	160,000	84248
		Management					
676	715-642	Water Pollution	\$	4,858,798	\$	4,964,625	84249
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	314,081	\$	210,662	84250
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647	84251
696	715-643	Air Pollution Control	\$	750,002	\$	750,000	84252
		Administration					
699	715-644	Water Pollution	\$	625,000	\$	625,000	84253
		Control Administration					
TOTAL SSR	State Special Revenue		\$	99,964,418	\$	102,182,123	84254
	Fund Group						
TOTAL ALL BUDGET	FUND GROUPS		\$	174,601,539	\$	176,908,410	84255
	CENTRAL SUPPORT INDIRECT						84256
	Notwithstanding any other provision of law to the contrary,						84257
	the Director of Environmental Protection, with the approval of the						84258
	Director of Budget and Management, shall utilize a methodology for						84259

determining each division's payments into the Central Support Indirect Fund (Fund 219). The methodology used shall contain the characteristics of administrative ease and uniform application. Payments to the Central Support Indirect Fund (Fund 219) shall be made using an intrastate transfer voucher.

**CLEAN OHIO - OPERATING**

The foregoing appropriation item 715-607, Clean Ohio - Operating, shall be used by the Ohio Environmental Protection Agency in administering sections 122.65 to 122.658 of the Revised Code.

**Section 47. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION**

General Revenue Fund				84271
GRF 172-321 Operating Expenses	\$	437,131	\$ 439,109	84272
TOTAL GRF General Revenue Fund	\$	437,131	\$ 439,109	84273
TOTAL ALL BUDGET FUND GROUPS	\$	437,131	\$ 439,109	84274

**Section 48. ETH OHIO ETHICS COMMISSION**

General Revenue Fund				84277
GRF 146-321 Operating Expenses	\$	1,286,869	\$ 1,351,213	84278
TOTAL GRF General Revenue Fund	\$	1,286,869	\$ 1,351,213	84279
General Services Fund Group				84280
4M6 146-601 Operating Expenses	\$	409,543	\$ 383,543	84281
TOTAL GSF General Services Fund Group	\$	409,543	\$ 383,543	84283
TOTAL ALL BUDGET FUND GROUPS	\$	1,696,412	\$ 1,734,756	84284

**Section 49. EXP OHIO EXPOSITIONS COMMISSION**

General Revenue Fund				84287
GRF 723-403 Junior Fair Subsidy	\$	465,412	\$ 465,412	84288
TOTAL GRF General Revenue Fund	\$	465,412	\$ 465,412	84289

State Special Revenue Fund Group				84290
4N2 723-602 Ohio State Fair	\$	520,000	\$ 520,000	84291
Harness Racing				
506 723-601 Operating Expenses	\$	13,211,481	\$ 13,643,315	84292
640 723-603 State Fair Reserve	\$	125,000	\$ 0	84293
TOTAL SSR State Special Revenue				84294
Fund Group	\$	13,856,481	\$ 14,163,315	84295
TOTAL ALL BUDGET FUND GROUPS	\$	14,321,893	\$ 14,628,727	84296

STATE FAIR RESERVE 84297

The foregoing appropriation item 723-603, State Fair Reserve, 84298  
shall serve as a budget reserve fund for the Ohio Expositions 84299  
Commission in the event of a significant decline in attendance due 84300  
to inclement weather or extraordinary circumstances during the 84301  
Ohio State Fair resulting in a loss of revenue. The State Fair 84302  
Reserve may be used by the Ohio Expositions Commission to pay 84303  
bills resulting from the Ohio State Fair only if all the following 84304  
criteria are met: 84305

(A) Admission revenues for the 2003 Ohio State Fair are less 84306  
than \$2,542,500 or admission revenues for the 2004 Ohio State Fair 84307  
are less than \$2,619,000 due to inclement weather or extraordinary 84308  
circumstances. These amounts are ninety per cent of the projected 84309  
admission revenues for each year. 84310

(B) The Ohio Expositions Commission declares a state of 84311  
fiscal exigency and requests release of funds by the Director of 84312  
Budget and Management. 84313

(C) The Director of Budget and Management releases the funds. 84314  
The Director of Budget and Management may approve or disapprove 84315  
the request for release of funds, may increase or decrease the 84316  
amount of release, and may place such conditions as the director 84317  
considers necessary on the use of the released funds. The Director 84318  
of Budget and Management may transfer appropriation authority from 84319

fiscal year 2004 to fiscal year 2005 as needed. 84320

In the event that the Ohio Expositions Commission faces a 84321  
temporary cash shortage that will preclude it from meeting current 84322  
obligations, the Commission may request the Director of Budget and 84323  
Management to approve use of the State Fair Reserve to meet those 84324  
obligations. The request shall include a plan describing how the 84325  
Commission will eliminate the cash shortage. If the Director of 84326  
Budget and Management approves the expenditures, the Commission 84327  
shall reimburse Fund 640 by the thirtieth day of June of that same 84328  
fiscal year through an intrastate transfer voucher. The amount 84329  
reimbursed is hereby appropriated. 84330

**Section 50.** GOV OFFICE OF THE GOVERNOR 84331

General Revenue Fund 84332

GRF 040-321 Operating Expenses	\$	4,112,358	\$	4,235,726	84333
GRF 040-403 Federal Relations	\$	510,000	\$	510,000	84334
GRF 040-408 Office of Veterans' Affairs	\$	276,723	\$	285,025	84335

Affairs

TOTAL GRF General Revenue Fund	\$	4,899,081	\$	5,030,751	84336
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General Services Fund Group 84337

412 040-607 Federal Relations	\$	500,000	\$	500,000	84338
TOTAL GSF General Services Fund	\$	500,000	\$	500,000	84339

Group

TOTAL ALL BUDGET FUND GROUPS	\$	5,399,081	\$	5,530,751	84340
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APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR 84341

The Governor may expend a portion of the foregoing 84342  
appropriation item 040-321, Operating Expenses, to hire or appoint 84343  
legal counsel to be used in proceedings involving the Governor in 84344  
the Governor's official capacity or the Governor's office only, 84345  
without the approval of the Attorney General, notwithstanding 84346  
sections 109.02 and 109.07 of the Revised Code. 84347

FEDERAL RELATIONS				84348	
A portion of the foregoing appropriation items 040-403,				84349	
Federal Relations, and 040-607, Federal Relations, may be used to				84350	
support Ohio's membership in national or regional associations.				84351	
The Office of the Governor may charge any state agency of the				84352	
executive branch using an intrastate transfer voucher such amounts				84353	
necessary to defray the costs incurred for the conduct of federal				84354	
relations associated with issues that can be attributed to the				84355	
agency. Amounts collected shall be deposited to the Office of the				84356	
Governor Federal Relations Fund (Fund 412).				84357	
<b>Section 51. DOH DEPARTMENT OF HEALTH</b>				84358	
General Revenue Fund				84359	
GRF 440-407 Animal Borne Disease	\$	2,690,101	\$	2,690,101	84360
and Prevention					
GRF 440-412 Cancer Incidence	\$	1,038,815	\$	1,066,616	84361
Surveillance System					
GRF 440-413 Healthy Communities	\$	4,139,009	\$	4,139,009	84362
GRF 440-416 Child and Family	\$	9,034,972	\$	9,034,972	84363
Health Services					
GRF 440-418 Immunizations	\$	8,431,975	\$	8,600,615	84364
GRF 440-419 Sexual Assault	\$	35,899	\$	35,899	84365
Prevention					
GRF 440-444 AIDS Prevention and	\$	7,589,816	\$	7,589,816	84366
Treatment					
GRF 440-446 Infectious Disease	\$	439,330	\$	439,330	84367
Prevention					
GRF 440-451 Lab and Public Health	\$	6,085,250	\$	6,085,250	84368
Prevention Programs					
GRF 440-452 Child and Family	\$	1,024,017	\$	1,024,017	84369
Health Services Match					
GRF 440-453 Health Care Quality	\$	10,453,728	\$	10,453,728	84370

		Assurance					
GRF	440-454	Local Environmental	\$	1,087,654	\$	1,122,654	84371
		Health					
GRF	440-459	Help Me Grow	\$	9,861,089	\$	9,861,089	84372
GRF	440-461	Center for Vital and	\$	3,579,790	\$	3,579,790	84373
		Health Stats					
GRF	440-504	Poison Control Network	\$	388,000	\$	388,000	84374
GRF	440-505	Medically Handicapped	\$	6,462,257	\$	6,462,738	84375
		Children					
GRF	440-507	Targeted Health Care	\$	731,023	\$	731,023	84376
		Services Over 21					
GRF	440-508	Migrant Health	\$	91,301	\$	91,301	84377
TOTAL GRF		General Revenue Fund	\$	73,164,026	\$	73,395,948	84378
		General Services Fund Group					84379
142	440-618	General Operations -	\$	3,372,444	\$	3,461,915	84380
		General Services Fund					
211	440-613	Central Support	\$	26,578,343	\$	26,584,707	84381
		Indirect Costs					
4K9	440-632	Occupational Therapy,		771,391		801,480	84382
		Physical Therapy, and					
		Athletic Trainers					
		Board					
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	84383
683	440-633	Employee Assistance	\$	1,192,234	\$	1,192,214	84384
		Program					
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	84385
TOTAL GSF		General Services					84386
Fund Group			\$	36,238,457	\$	36,364,361	84387
		Federal Special Revenue Fund Group					84388
320	440-601	Maternal Child Health	\$	34,451,205	\$	35,136,169	84389
		Block Grant					
387	440-602	Preventive Health	\$	8,200,000	\$	8,200,000	84390

		Block Grant					
389	440-604	Women, Infants, and Children	\$	210,000,000	\$	220,000,000	84391
391	440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159	84392
392	440-618	General Operations - Federal Fund	\$	114,474,764	\$	115,319,323	84393
TOTAL FED		Federal Special Revenue					84394
Fund Group			\$	393,420,243	\$	405,475,651	84395
State Special Revenue		Fund Group					84396
4D6	440-608	Genetics Services	\$	2,300,000	\$	2,300,000	84397
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	84398
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	84399
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	84400
4L3	440-609	Miscellaneous Expenses	\$	256,082	\$	144,119	84401
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	84402
4V6	440-641	Save Our Sight	\$	1,733,327	\$	1,767,994	84403
470	440-618	General Operations - State Special Revenue	\$	14,525,443	\$	16,025,194	84404
471	440-619	Certificate of Need	\$	475,000	\$	483,572	84405
477	440-627	Medically Handicapped Children Audit	\$	4,640,498	\$	4,733,008	84406
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	84407
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	84408
5D6	440-620	Second Chance Trust	\$	887,018	\$	825,951	84409
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	84410
5E1	440-624	Health Services	\$	688,321	\$	0	84411
5L1	440-623	Nursing Facility Technical Assistance	\$	586,153	\$	617,517	84412

	Program					
610	440-626	Radiation Emergency	\$	923,315	\$ 923,315	84413
		Response				
666	440-607	Medically Handicapped	\$	14,320,687	\$ 14,320,687	84414
		Children - County				
		Assessments				
TOTAL SSR State Special Revenue						84415
Fund Group			\$	44,928,966	\$ 45,734,479	84416
Holding Account Redistribution Fund Group						84417
R14	440-631	Vital Statistics	\$	70,000	\$ 70,000	84418
R48	440-625	Refunds, Grants	\$	20,400	\$ 20,400	84419
		Reconciliation, and				
		Audit Settlements				
TOTAL 090 Holding Account						84420
Redistribution Fund Group			\$	90,400	\$ 90,400	84421
TOTAL ALL BUDGET FUND GROUPS			\$	547,842,092	\$ 561,060,839	84422

**Section 51.01. CANCER REGISTRY SYSTEM** 84424

Of the foregoing appropriation item 440-412, Cancer Incidence 84425  
 Surveillance System, not more than \$50,000 in each fiscal year 84426  
 shall be provided to Health Comp, Inc. 84427

The remaining moneys in appropriation item 440-412, Cancer 84428  
 Incidence Surveillance System, shall be used to maintain and 84429  
 operate the Ohio Cancer Incidence Surveillance System pursuant to 84430  
 sections 3701.261 to 3701.263 of the Revised Code. 84431

**HEALTHY COMMUNITIES** 84432

Of the foregoing appropriation item 440-413, Healthy 84433  
 Communities, \$50,000 in each fiscal year shall be allocated to the 84434  
 Columbus Yassenoff Jewish Community Center to fund nutrition and 84435  
 exercise education for children ages eight to thirteen. 84436

**CHILD AND FAMILY HEALTH SERVICES** 84437

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$1,700,000 in each fiscal year shall be used for women's health services. None of the funds received through these grants shall be used to provide abortion services. None of the funds received through these grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed by the Director of Health to programs that the Department of Health determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency.

These women's health services include and are limited to the following: pelvic exams and lab testing; breast exams and patient education on breast cancer; screening for cervical cancer; screening and treatment for Sexually Transmitted Diseases (STDs) and HIV screening; voluntary choice of contraception, including abstinence and natural family planning; patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy; education on sexual coercion and violence in relationships; and prenatal care or referral for prenatal care. These health care services shall be provided by licensed doctors, nurses, medical assistants, counselors, and social workers in a medical clinic setting.

The Director of Health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying reasonable eligibility standards that must be met to receive the state funding and provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Each applicant for these funds shall provide sufficient

assurance to the Director of Health of all of the following: 84470

(A) The program shall not discriminate in the provision of 84471  
services based on an individual's religion, race, national origin, 84472  
handicapping condition, age, number of pregnancies, or marital 84473  
status; 84474

(B) The program shall provide services without subjecting 84475  
individuals to any coercion to accept services or to employ any 84476  
particular methods of family planning; 84477

(C) Acceptance of services shall be solely on a voluntary 84478  
basis and may not be made a prerequisite to eligibility for, or 84479  
receipt of, any other service, assistance from, or participation 84480  
in, any other program of the service provider; 84481

(D) The costs for services provided by the program, if any 84482  
are charged, shall be based on the patient's ability to pay and 84483  
priority in the provision of services shall be given to persons 84484  
from low-income families. 84485

In distributing these grant funds, the Director of Health 84486  
shall give priority to grant requests from local departments of 84487  
health for women's health services to be provided directly by 84488  
personnel of the local department of health. Local departments of 84489  
health that apply for grants for women's health services to be 84490  
provided directly by personnel of the local department of health 84491  
need not provide all the listed women's health services in order 84492  
to qualify for a grant. However, in prioritizing awards among 84493  
local departments of health that qualify for funding under this 84494  
paragraph, the Director of Health may consider, among other 84495  
reasonable factors, the comprehensiveness of the women's health 84496  
services to be offered, provided that no local department of 84497  
health shall be discriminated against in the process of awarding 84498  
these grant funds because the applicant does not provide 84499  
contraception. 84500

If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Other grant applicants need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among such other applicants that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$30,000 in each fiscal year shall be allocated to the Jewish Family Service of Cleveland, \$10,000 in each fiscal

year shall be allocated to the Jewish Family Service of 84532  
Cincinnati, and \$10,000 in each fiscal year shall be allocated to 84533  
the Jewish Family Services of Columbus for interpreters for health 84534  
care. 84535

Of the foregoing appropriation item 440-416, Child and Family 84536  
Health Services, \$25,000 in each fiscal year shall be allocated to 84537  
Clermont County's Comprehensive Community Suicide Prevention 84538  
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 Health Education Center in Cincinnati. 84542

Of the foregoing appropriation item 440-416, Child and Family 84543  
Health Services, \$62,500 in each fiscal year shall be allocated to 84544  
the Cincinnati YWCA Hippy. 84545

Of the foregoing appropriation item 440-416, Child and Family 84546  
Health Services, \$25,000 in each fiscal year shall be allocated to 84547  
the Helping Hearts Program. 84548

Of the foregoing appropriation item 440-416, Child and Family 84549  
Health Services, \$25,000 in each fiscal year shall be allocated to 84550  
the Tree of Knowledge Learning Center. 84551

Of the foregoing appropriation item 440-416, Child and Family 84552  
Health Services, \$50,000 in each fiscal year shall be allocated to 84553  
the Mayerson Foundation. 84554

SEXUAL ASSAULT PREVENTION AND INTERVENTION 84555

The foregoing appropriation item 440-419, Sexual Assault 84556  
Prevention and Intervention, shall be used for the following 84557  
purposes: 84558

(A) Funding of new services in counties with no services for 84559  
sexual assault; 84560

(B) Expansion of services provided in currently funded 84561

projects so that comprehensive crisis intervention and prevention services are offered;	84562 84563
(C) Start-up funding for Sexual Assault Nurse Examiner (SANE) projects;	84564 84565
(D) Statewide expansion of local outreach and public awareness efforts.	84566 84567
HIV/AIDS PREVENTION/TREATMENT	84568
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.	84569 84570 84571 84572
INFECTIOUS DISEASE PREVENTION	84573
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.	84574 84575 84576 84577
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.	84578 84579 84580 84581 84582 84583 84584
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.	84585 84586 84587 84588
HELP ME GROW	84589
The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to	84590 84591

counties to implement the Help Me Grow program. Appropriation item 84592  
440-459 may be used in conjunction with Temporary Assistance for 84593  
Needy Families from the Department of Job and Family Services, 84594  
Early Intervention funding from the Department of Mental 84595  
Retardation and Developmental Disabilities, and in conjunction 84596  
with other early childhood funds and services to promote the 84597  
optimal development of young children. Local contracts shall be 84598  
developed between local departments of job and family services and 84599  
family and children first councils for the administration of TANF 84600  
funding for the Help Me Grow Program. The Department of Health 84601  
shall enter into an interagency agreement with the Department of 84602  
Education, Department of Mental Retardation and Developmental 84603  
Disabilities, Department of Job and Family Services, and 84604  
Department of Mental Health to ensure that all early childhood 84605  
programs and initiatives are coordinated and school linked. 84606

POISON CONTROL NETWORK 84607

The foregoing appropriation item 440-504, Poison Control 84608  
Network, shall be used in each fiscal year by the Department of 84609  
Health for grants to the consolidated Ohio Poison Control Center 84610  
to provide poison control services to Ohio citizens. 84611

Notwithstanding section 3701.83 of the Revised Code, not 84612  
later than the fifteenth day of July of each fiscal year or as 84613  
soon as possible thereafter, the Director of Budget and Management 84614  
shall transfer cash in the amount of \$127,287 from appropriation 84615  
item 440-618, General Operations - General Services Fund, (Fund 84616  
142) to the General Revenue Fund. 84617

TARGETED HEALTH CARE SERVICES OVER 21 84618

In each fiscal year, appropriation item 440-507, Targeted 84619  
Health Care Services Over 21, shall be used to administer the 84620  
cystic fibrosis program and implement the Hemophilia Insurance 84621  
Premium Payment program. 84622

EXTENSION OF HEMOPHILIA HEALTH INSURANCE PREMIUM PAYMENTS 84623

The Director of Health shall continue to provide, through 84624  
contracts with or grants to hemophilia treatment centers, for 84625  
health insurance premiums to be paid for individuals who are at 84626  
least twenty-one years of age, diagnosed with hemophilia or a 84627  
related bleeding disorder, and receive such assistance on the day 84628  
prior to the effective date of this section under the program for 84629  
care and treatment of persons suffering from hemophilia 84630  
established under former section 3701.144 of the Revised Code 84631  
until the effective date of the initial rules adopted under 84632  
division (A)(12) of section 3701.021 of the Revised Code for the 84633  
hemophilia program established under section 3701.029 of the 84634  
Revised Code. The Public Health Council shall adopt those rules 84635  
not later than twelve months after the effective date of this 84636  
section. 84637

MATERNAL CHILD HEALTH BLOCK GRANT 84638

Of the foregoing appropriation item 440-601, Maternal Child 84639  
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 84640  
fiscal year for the purposes of abstinence-only education. The 84641  
Director of Health shall develop guidelines for the establishment 84642  
of abstinence programs for teenagers with the purpose of 84643  
decreasing unplanned pregnancies and abortion. Such guidelines 84644  
shall be pursuant to Title V of the "Social Security Act," 42 84645  
U.S.C. 510, and shall include, but are not limited to, advertising 84646  
campaigns and direct training in schools and other locations. 84647

GENETICS SERVICES 84648

The foregoing appropriation item 440-608, Genetics Services 84649  
(Fund 4D6), shall be used by the Department of Health to 84650  
administer programs authorized by sections 3701.501 and 3701.502 84651  
of the Revised Code. None of these funds shall be used to counsel 84652  
or refer for abortion, except in the case of a medical emergency. 84653

SAFETY AND QUALITY OF CARE STANDARDS	84654
The Department of Health may use Fund 471, Certificate of Need, for administering sections 3702.11 to 3702.20 and 3702.30 of the Revised Code in each fiscal year.	84655 84656 84657
MEDICALLY HANDICAPPED CHILDREN AUDIT	84658
The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.	84659 84660 84661 84662 84663 84664 84665 84666 84667 84668 84669 84670 84671
CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND	84672 84673
The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.	84674 84675 84676 84677 84678 84679
The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) established in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.	84680 84681 84682 84683

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS				84684
The foregoing appropriation item 440-607, Medically				84685
Handicapped Children - County Assessments (Fund 666), shall be				84686
used to make payments pursuant to division (E) of section 3701.023				84687
of the Revised Code.				84688
NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM				84689
The Director of Budget and Management shall transfer, by				84690
intrastate transfer voucher, each fiscal year, cash from Fund 4E3,				84691
Resident Protection Fund, in the Ohio Department of Job and Family				84692
Services, to Fund 5L1, Nursing Facility Technical Assistance Fund,				84693
in the Ohio Department of Health, to be used in accordance with				84694
section 3721.026 of the Revised Code. The transfers shall equal				84695
the amount appropriated per fiscal year in Fund 5L1, Nursing				84696
Facility Technical Assistance Fund.				84697
<b>Section 52. HEF HIGHER EDUCATIONAL FACILITY COMMISSION</b>				84698
Agency Fund Group				84699
461 372-601 Operating Expenses	\$	15,290	\$ 16,819	84700
TOTAL AGY Agency Fund Group	\$	15,290	\$ 16,819	84701
TOTAL ALL BUDGET FUND GROUPS	\$	15,290	\$ 16,819	84702
<b>Section 53. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS</b>				84704
General Revenue Fund				84705
GRF 148-100 Personal Services	\$	127,419	\$ 127,419	84706
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	84707
TOTAL GRF General Revenue Fund	\$	163,320	\$ 163,320	84708
General Services Fund Group				84709
601 148-602 Gifts and	\$	8,485	\$ 8,485	84710
Miscellaneous				
TOTAL GSF General Services				84711
Fund Group	\$	8,485	\$ 8,485	84712

TOTAL ALL BUDGET FUND GROUPS \$ 171,805 \$ 171,805 84713

Section 54. OHS OHIO HISTORICAL SOCIETY 84715

General Revenue Fund 84716

GRF 360-403 Adena - Worthington \$ 200,000 \$ 150,000 84717  
Home

GRF 360-501 Operating Subsidy \$ 3,589,973 \$ 3,589,973 84718

GRF 360-502 Site Operations \$ 8,240,438 \$ 8,240,438 84719

GRF 360-503 Ohio Bicentennial \$ 1,847,239 \$ 58,164 84720  
Commission

GRF 360-504 Ohio Preservation \$ 339,733 \$ 339,733 84721  
Office

GRF 360-505 Afro-American Museum \$ 778,231 \$ 778,231 84722

GRF 360-506 Hayes Presidential \$ 524,981 \$ 524,981 84723  
Center

GRF 360-508 Historical Grants \$ 2,200,000 \$ 1,550,000 84724

TOTAL GRF General Revenue Fund \$ 17,720,595 \$ 15,231,520 84725

TOTAL ALL BUDGET FUND GROUPS \$ 17,720,595 \$ 15,231,520 84726

SUBSIDY APPROPRIATION 84727

Upon approval by the Director of Budget and Management, the 84728  
foregoing appropriation items shall be released to the Ohio 84729  
Historical Society in quarterly amounts that in total do not 84730  
exceed the annual appropriations. The funds and fiscal records of 84731  
the society for fiscal years 2004 and 2005 shall be examined by 84732  
independent certified public accountants approved by the Auditor 84733  
of State, and a copy of the audited financial statements shall be 84734  
filed with the Office of Budget and Management. The society shall 84735  
prepare and submit to the Office of Budget and Management the 84736  
following: 84737

(A) An estimated operating budget for each fiscal year of the 84738  
biennium. The operating budget shall be submitted at or near the 84739  
beginning of each year. 84740

(B) Financial reports, indicating actual receipts and 84741  
expenditures for the fiscal year to date. These reports shall be 84742  
filed at least semiannually during the fiscal biennium. 84743

The foregoing appropriations shall be considered to be the 84744  
contractual consideration provided by the state to support the 84745  
state's offer to contract with the Ohio Historical Society under 84746  
section 149.30 of the Revised Code. If the Ohio Historical Society 84747  
accepts this contractual offer, the society may not, during fiscal 84748  
year 2004 or 2005, close any of the sites operated by the society 84749  
as of the effective date of this section. 84750

Not later than May 15, 2004, the Ohio Historical Society 84751  
shall submit to the Controlling Board a plan for the 84752  
implementation of the recommendations of the Select Committee to 84753  
Study the Effectiveness of Ohio's Historical Programs and 84754  
Partnerships. No appropriations to the society for fiscal year 84755  
2005 may be expended without prior approval of the implementation 84756  
plan by the Controlling Board. 84757

HAYES PRESIDENTIAL CENTER 84758

If a United States government agency, including, but not 84759  
limited to, the National Park Service, chooses to take over the 84760  
operations or maintenance of the Hayes Presidential Center, in 84761  
whole or in part, the Ohio Historical Society shall make 84762  
arrangements with the National Park Service or other United States 84763  
government agency for the efficient transfer of operations or 84764  
maintenance. 84765

HISTORICAL GRANTS 84766

Of the foregoing appropriation item 360-508, Historical 84767  
Grants, \$100,000 in each fiscal year shall be distributed to the 84768  
Hebrew Union College in Cincinnati for the Center for Holocaust 84769  
and Humanity Education, \$150,000 in fiscal year 2004 shall be 84770  
distributed to the National Underground Railroad Freedom Center in 84771

Cincinnati, \$250,000 in each fiscal year shall be distributed to 84772  
the Great Lakes Historical Society in Vermilion, \$600,000 in each 84773  
fiscal year shall be distributed to the Western Reserve Historical 84774  
Society in Cleveland, \$500,000 in fiscal year 2004 shall be 84775  
distributed to the Village of Dennison for the Historical Center 84776  
Street District, \$100,000 in each fiscal year shall be distributed 84777  
to the Harbor Heritage Society Steamship Mather in Cleveland, and 84778  
\$500,000 in each fiscal year shall be distributed to the 84779  
Cincinnati Museum Center. 84780

OHIO BICENTENNIAL COMMISSION ROYALTIES 84781

Notwithstanding any previous arrangement to the contrary, the 84782  
Ohio Bicentennial Commission shall keep the first \$100,000 in 84783  
earned royalties associated with the Ohio Bicentennial logo during 84784  
the 2004-2005 biennium. This \$100,000 shall be used to cover the 84785  
operating expenses of the Ohio Bicentennial Commission in fiscal 84786  
year 2005. The remaining moneys collected from royalties 84787  
associated with the Ohio Bicentennial logo shall be deposited into 84788  
the General Revenue Fund, of which \$350,000 shall be distributed 84789  
to the Ohio Historical Society for use in appropriation item 84790  
360-403, Adena - Worthington Home. 84791

**Section 55.** REP OHIO HOUSE OF REPRESENTATIVES 84792

General Revenue Fund				84793	
GRF 025-321 Operating Expenses	\$	19,018,547	\$	19,969,473	84794
TOTAL GRF General Revenue Fund	\$	19,018,547	\$	19,969,473	84795
General Services Fund Group				84796	
103 025-601 House Reimbursement	\$	1,351,875	\$	1,419,469	84797
4A4 025-602 Miscellaneous Sales	\$	35,690	\$	37,474	84798
TOTAL GSF General Services				84799	
Fund Group	\$	1,387,565	\$	1,456,943	84800
TOTAL ALL BUDGET FUND GROUPS	\$	20,406,112	\$	21,426,416	84801

<b>Section 56.</b>	IGO OFFICE OF THE INSPECTOR GENERAL			84803
	General Revenue Fund			84804
	GRF 965-321 Operating Expenses	\$	812,000 \$	812,000 84805
	TOTAL GRF General Revenue Fund	\$	812,000 \$	812,000 84806
	General Services Fund Group			84807
	5X9 965-401 Inspector General	\$	100,000 \$	100,000 84808
	Reimbursement			
	TOTAL GSF General Services Fund	\$	100,000 \$	100,000 84809
	Group			
	State Special Revenue Fund Group			84810
	4Z3 965-602 Special Investigations	\$	100,000 \$	100,000 84811
	TOTAL SSR State Special Revenue	\$	100,000 \$	100,000 84812
	Fund Group			
	TOTAL ALL BUDGET FUND GROUPS	\$	1,012,000 \$	1,012,000 84813
	INSPECTOR GENERAL REIMBURSEMENT			84814
	The foregoing appropriation item 965-401, Inspector General			84815
	Reimbursement, shall be used for reimbursement from agreements			84816
	with state agencies and the voluntary contributions from private			84817
	parties for investigative costs of the Inspector General.			84818
	SPECIAL INVESTIGATIONS			84819
	Of the foregoing appropriation item 965-602, Special			84820
	Investigations, up to \$100,000 in each fiscal year may be used for			84821
	investigative costs, pursuant to section 121.481 of the Revised			84822
	Code.			84823
	<b>Section 57.</b>	INS DEPARTMENT OF INSURANCE		84824
	Federal Special Revenue Fund Group			84825
	3U5 820-602 OSHIIP Operating Grant	\$	560,559 \$	560,559 84826
	TOTAL FED Federal Special			84827
	Revenue Fund Group	\$	560,559 \$	560,559 84828

State Special Revenue Fund Group				84829
554 820-601 Operating Expenses -	\$	506,515	\$ 561,411	84830
OSHIIP				
554 820-606 Operating Expenses	\$	21,815,431	\$ 22,357,575	84831
555 820-605 Examination	\$	7,433,751	\$ 7,639,581	84832
TOTAL SSR State Special Revenue				84833
Fund Group	\$	29,755,697	\$ 30,558,567	84834
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$ 31,119,126	84835

MARKET CONDUCT EXAMINATION 84836

When conducting a market conduct examination of any insurer 84837  
doing business in this state, the Superintendent of Insurance may 84838  
assess the costs of the examination against the insurer. The 84839  
superintendent may enter into consent agreements to impose 84840  
administrative assessments or fines for conduct discovered that 84841  
may be violations of statutes or regulations administered by the 84842  
superintendent. All costs, assessments, or fines collected shall 84843  
be deposited to the credit of the Department of Insurance 84844  
Operating Fund (Fund 554). 84845

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 84846

The Superintendent of Insurance may transfer funds from the 84847  
Department of Insurance Operating Fund (Fund 554), established by 84848  
section 3901.021 of the Revised Code, to the Superintendent's 84849  
Examination Fund (Fund 555), established by section 3901.071 of 84850  
the Revised Code, only for the expenses incurred in examining 84851  
domestic fraternal benefit societies as required by section 84852  
3921.28 of the Revised Code. 84853

On July 1, 2003, or as soon as possible thereafter, the 84854  
Director of Budget and Management shall transfer \$1,000,000 from 84855  
the Department of Insurance Operating Fund (Fund 554) to the 84856  
General Revenue Fund. 84857

<b>Section 58. JFS DEPARTMENT OF JOB AND FAMILY SERVICES</b>			84858
General Revenue Fund			84859
GRF 600-321	Support Services		84860
	State	\$ 62,361,047 \$ 58,611,047	84861
	Federal	\$ 7,176,249 \$ 7,125,883	84862
	Support Services Total	\$ 69,537,296 \$ 65,736,930	84863
GRF 600-410	TANF State	\$ 272,619,061 \$ 272,619,061	84864
GRF 600-413	Child Care	\$ 84,120,596 \$ 88,120,596	84865
	Match/Maintenance of Effort		
GRF 600-416	Computer Projects		84866
	State	\$ 120,000,000 \$ 120,000,000	84867
	Federal	\$ 31,095,442 \$ 31,400,454	84868
	Computer Projects Total	\$ 151,095,442 \$ 151,400,454	84869
GRF 600-420	Child Support Administration	\$ 5,091,446 \$ 5,091,446	84870
GRF 600-421	Office of Family Stability	\$ 4,864,932 \$ 4,864,932	84871
GRF 600-422	Local Operations	\$ 2,305,232 \$ 2,305,232	84872
GRF 600-423	Office of Children and Families	\$ 5,000,000 \$ 5,000,000	84873
GRF 600-424	Office of Workforce Development	\$ 877,971 \$ 877,971	84874
GRF 600-425	Office of Ohio Health Plans		84875
	State	\$ 21,944,901 \$ 22,603,740	84876
	Federal	\$ 21,848,555 \$ 22,495,502	84877
	Office of Ohio Health Plans Total	\$ 43,793,456 \$ 45,099,242	84878
GRF 600-435	Unemployment Compensation Review	\$ 3,188,473 \$ 3,188,473	84879

	Commission				
GRF 600-439	Commission to Reform	\$	125,000	\$	125,000 84880
	Medicaid				
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103 84881
GRF 600-511	Disability Financial	\$	22,839,371	\$	22,839,371 84882
	Assistance				
GRF 600-521	Family Stability	\$	55,206,401	\$	55,206,401 84883
	Subsidy				
GRF 600-523	Children and Families	\$	69,846,563	\$	69,846,563 84884
	Subsidy				
GRF 600-525	Health Care/Medicaid				84885
	State	\$	3,676,753,835	\$	3,892,593,671 84886
	Federal	\$	5,223,371,246	\$	5,567,441,206 84887
	Health Care Total	\$	8,900,125,081	\$	9,460,034,877 84888
GRF 600-528	Adoption Services				84889
	State	\$	33,395,955	\$	36,017,981 84890
	Federal	\$	37,368,248	\$	41,115,000 84891
	Adoption Services	\$	70,764,203	\$	77,132,981 84892
	Total				
TOTAL GRF	General Revenue Fund				84893
	State	\$	4,457,354,887	\$	4,676,725,588 84894
	Federal	\$	5,320,859,740	\$	5,669,578,045 84895
	GRF Total	\$	9,778,214,627	\$	10,346,303,633 84896
	General Services Fund Group				84897
4A8 600-658	Child Support	\$	27,255,646	\$	26,680,794 84898
	Collections				
4R4 600-665	BCII Services/Fees	\$	136,974	\$	136,974 84899
5C9 600-671	Medicaid Program	\$	54,686,270	\$	55,137,078 84900
	Support				
5N1 600-677	County Technologies	\$	5,000,000	\$	5,000,000 84901
613 600-645	Training Activities	\$	135,000	\$	135,000 84902
TOTAL GSF	General Services				84903
Fund Group		\$	87,213,890	\$	87,089,846 84904

Federal Special Revenue Fund Group				84905
3A2 600-641 Emergency Food	\$	2,083,500	\$ 2,187,675	84906
Distribution				
3D3 600-648 Children's Trust Fund	\$	2,040,524	\$ 2,040,524	84907
Federal				
3F0 600-623 Health Care Federal	\$	408,467,306	\$ 424,104,433	84908
3F0 600-650 Hospital Care	\$	298,128,308	\$ 305,879,644	84909
Assurance Match				
3G5 600-655 Interagency	\$	1,180,523,642	\$ 1,245,244,536	84910
Reimbursement				
3H7 600-617 Child Care Federal	\$	224,539,425	\$ 235,045,596	84911
3N0 600-628 IV-E Foster Care	\$	173,963,142	\$ 173,963,142	84912
Maintenance				
3S5 600-622 Child Support Projects	\$	534,050	\$ 534,050	84913
3V0 600-662 WIA Ohio Option #7	\$	87,407,014	\$ 89,352,850	84914
3V0 600-688 Workforce Investment	\$	93,636,390	\$ 94,932,750	84915
Act				
3V4 600-678 Federal Unemployment	\$	153,690,682	\$ 154,111,608	84916
Programs				
3V4 600-679 Unemployment	\$	3,097,320	\$ 2,860,297	84917
Compensation Review				
Commission - Federal				
3V6 600-689 TANF Block Grant	\$	786,095,609	\$ 841,909,688	84918
3W3 600-659 TANF/Title XX	\$	88,994,049	\$ 93,498,158	84919
316 600-602 State and Local	\$	11,212,594	\$ 11,249,282	84920
Training				
327 600-606 Child Welfare	\$	29,119,408	\$ 28,665,728	84921
331 600-686 Federal Operating	\$	48,237,185	\$ 47,340,081	84922
365 600-681 JOB Training Program	\$	5,000,000	\$ 0	84923
384 600-610 Food Stamps and State	\$	134,560,572	\$ 135,141,694	84924
Administration				
385 600-614 Refugee Services	\$	5,793,656	\$ 5,841,407	84925
395 600-616 Special	\$	3,975,821	\$ 3,975,821	84926

		Activities/Child and Family Services				
396	600-620	Social Services Block Grant	\$	74,969,767	\$	74,986,134 84927
397	600-626	Child Support	\$	304,157,939	\$	307,468,576 84928
398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370 84929
TOTAL FED		Federal Special Revenue				84930
Fund Group			\$	4,460,185,881	\$	4,620,438,044 84931
State Special Revenue		Fund Group				84932
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109 84933
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000 84934
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914 84935
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000 84936
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310 84937
4J5	600-613	Nursing Facility Bed Assessments	\$	35,060,013	\$	35,064,238 84938
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000 84939
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726 84940
4R3	600-687	Banking Fees	\$	892,000	\$	892,000 84941
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000 84942
5A5	600-685	Unemployment Benefit Automation	\$	14,000,000	\$	0 84943
5P5	600-692	Health Care Services	\$	492,932,514	\$	515,947,439 84944
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	30,797,539	\$	30,797,539 84945

5R2 600-608	Medicaid-Nursing Facilities	\$ 125,517,482	\$ 134,666,713	84946
5S3 600-629	MR/DD Medicaid Administration and Oversight	\$ 1,620,960	\$ 1,620,960	84947
5T2 600-652	Child Support Special Payment	\$ 1,500,000	\$ 750,000	84948
5U3 600-654	Health Care Services Administration	\$ 7,576,322	\$ 6,119,127	84949
5U6 600-663	Children and Family Support	\$ 4,929,718	\$ 4,929,718	84950
651 600-649	Hospital Care Assurance Program Fund	\$ 208,634,072	\$ 214,058,558	84951
TOTAL SSR	State Special Revenue			84952
Fund Group		\$ 987,144,002	\$ 1,008,491,351	84953
Agency Fund Group				84954
192 600-646	Support Intercept - Federal	\$ 136,500,000	\$ 136,500,000	84955
5B6 600-601	Food Stamp Intercept	\$ 5,000,000	\$ 5,000,000	84956
583 600-642	Support Intercept - State	\$ 20,565,582	\$ 20,565,582	84957
TOTAL AGY	Agency Fund Group	\$ 162,065,582	\$ 162,065,582	84958
Holding Account	Redistribution Fund Group			84959
R12 600-643	Refunds and Audit Settlements	\$ 5,343,906	\$ 5,343,906	84960
R13 600-644	Forgery Collections	700,000	700,000	84961
TOTAL 090	Holding Account Redistribution Fund Group	\$ 6,043,906	\$ 6,043,906	84962
TOTAL ALL BUDGET	FUND GROUPS	\$15,480,867,888	\$16,230,432,362	84963
<b>Section 58.01.</b>	OHIO COMMISSION TO REFORM MEDICAID			84965
	The foregoing appropriation item 600-439, Commission to			84966

Reform Medicaid, shall be used to fund the Ohio Commission to 84967  
Reform Medicaid. 84968

**HEALTH CARE/MEDICAID** 84969

The foregoing appropriation item 600-525, Health 84970  
Care/Medicaid, shall not be limited by the provisions of section 84971  
131.33 of the Revised Code. 84972

**Section 58.02. CHILD SUPPORT COLLECTIONS/TANF MOE** 84973

The foregoing appropriation item 600-658, Child Support 84974  
Collections, shall be used by the Department of Job and Family 84975  
Services to meet the TANF maintenance of effort requirements of 84976  
Pub. L. No. 104-193. After the state has met the maintenance of 84977  
effort requirement, the Department of Job and Family Services may 84978  
use funds from appropriation item 600-658 to support public 84979  
assistance activities. 84980

**Section 58.03. MEDICAID PROGRAM SUPPORT FUND - STATE** 84981

The foregoing appropriation item 600-671, Medicaid Program 84982  
Support, shall be used by the Department of Job and Family 84983  
Services to pay for Medicaid services and contracts. The 84984  
Department may also deposit to Fund 5C9 revenues received from 84985  
other state agencies for Medicaid services under the terms of 84986  
interagency agreements between the Department and other state 84987  
agencies. 84988

**Section 58.04. HEALTH CARE SERVICES ADMINISTRATION** 84989

The foregoing appropriation item 600-654, Health Care 84990  
Services Administration, shall be used by the Department of Job 84991  
and Family Services for costs associated with the administration 84992  
of the Medicaid program. 84993

**Section 58.05. HEALTH CARE SERVICES ADMINISTRATION FUND** 84994

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. 85025

Before the thirtieth day of September of each fiscal year, 85026  
the Department of Job and Family Services shall file claims with 85027  
the United States Department of Health and Human Services for 85028  
reimbursement for all allowable expenditures for services provided 85029  
by the Department of Job and Family Services, or other agencies 85030  
that may qualify for Social Services Block Grant funding pursuant 85031  
to Title XX of the Social Security Act. 85032

**Section 58.06a.** GOVERNOR'S OFFICE FOR FAITH-BASED NONPROFIT 85033  
AND OTHER NONPROFIT ORGANIZATIONS 85034

Of the foregoing appropriation item 600-659, TANF/Title XX, 85035  
\$625,000 in the fiscal year 2004-2005 biennium shall be used to 85036  
support the activities of the Governor's Office for Faith-Based 85037  
Nonprofit and Other Nonprofit Organizations. 85038

OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS 85039

Of the foregoing appropriation item 600-659, TANF/Title XX 85040  
(Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by 85041  
the Department of Job and Family Services to support expenditures 85042  
to the Ohio Association of Second Harvest Food Banks according to 85043  
the following criteria. 85044

As used in this section, "federal poverty guidelines" has the 85045  
same meaning as in section 5101.46 of the Revised Code. 85046

The Department of Job and Family Services shall provide an 85047  
annual grant of \$4,500,000 in each of the fiscal years 2004 and 85048  
2005 to the Ohio Association of Second Harvest Food Banks. In each 85049  
fiscal year, the Ohio Association of Second Harvest Food Banks 85050  
shall use \$2,500,000 for the purchase of food products for the 85051  
Ohio Food Program, of which up to \$105,000 may be used for food 85052  
storage and transport, and shall use \$2,000,000 for the 85053  
Agricultural Surplus Production Alliance Project. Funds provided 85054

for the Ohio Food Program shall be used to purchase food products 85055  
and to distribute those food products to agencies participating in 85056  
the emergency food distribution program. No funds provided through 85057  
this grant may be used for administrative expenses other than 85058  
funds provided for food storage and transport. As soon as possible 85059  
after entering into a grant agreement at the beginning of each 85060  
fiscal year, the Department of Job and Family Services shall 85061  
distribute the grant funds in one single payment. The Ohio 85062  
Association of Second Harvest Food Banks shall develop a plan for 85063  
the distribution of the food products to local food distribution 85064  
agencies. Agencies receiving these food products shall ensure that 85065  
individuals and families who receive any of the food products 85066  
purchased with these funds have an income at or below 150 per cent 85067  
of the federal poverty guidelines. The Department of Job and 85068  
Family Services and the Ohio Association of Second Harvest Food 85069  
Banks shall agree on reporting requirements to be incorporated 85070  
into the grant agreement. 85071

The Ohio Association of Second Harvest Food Banks shall 85072  
return any fiscal year 2004 funds from this grant remaining 85073  
unspent on June 30, 2004, to the Department of Job and Family 85074  
Services not later than November 1, 2004. The Ohio Association of 85075  
Second Harvest Food Banks shall return any fiscal year 2005 funds 85076  
from the grant remaining unspent on June 30, 2005, to the 85077  
Department of Job and Family Services no later than November 1, 85078  
2005. 85079

**Section 58.06.A.1. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS** 85080

Of the foregoing appropriation item 600-659, TANF/Title XX 85081  
(Fund 3W3), the Department of Job and Family Services shall use up 85082  
to \$600,000 in each fiscal year to support expenditures of the 85083  
Ohio Alliance of Boys and Girls Clubs to provide nutritional 85084  
meals, snacks, and educational and enrichment services to children 85085

participating in programs and activities operated by eligible Boys and Girls Clubs. 85086  
85087

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. 85088  
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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. 85097  
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**Section 58.06b. ADULT PROTECTIVE SERVICES** 85104

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. 85105  
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**Section 58.07. PRESCRIPTION DRUG REBATE FUND** 85111

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 85112  
85113  
85114  
85115

rights of recovery under section 5101.58 of the Revised Code, that 85116  
are not directed to the Health Care Services Administration Fund 85117  
(Fund 5U3) pursuant to section 5111.94 of the Revised Code shall 85118  
also be deposited into Fund 5P5. 85119

**Section 58.08. ODJFS FUNDS** 85120

AGENCY FUND GROUP 85121

The Agency Fund Group shall be used to hold revenues until 85122  
the appropriate fund is determined or until they are directed to 85123  
the appropriate governmental agency other than the Department of 85124  
Job and Family Services. If it is determined that additional 85125  
appropriation authority is necessary, such amounts are hereby 85126  
appropriated. 85127

HOLDING ACCOUNT REDISTRIBUTION GROUP 85128

The foregoing appropriation items 600-643, Refunds and Audit 85129  
Settlements, and 600-644, Forgery Collections, Holding Account 85130  
Redistribution Fund Group, shall be used to hold revenues until 85131  
they are directed to the appropriate accounts or until they are 85132  
refunded. If it is determined that additional appropriation 85133  
authority is necessary, such amounts are hereby appropriated. 85134

**Section 58.09. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY** 85135  
**DEPARTMENTS OF JOB AND FAMILY SERVICES** 85136

Using the foregoing appropriation items 600-521, Family 85137  
Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps 85138  
and State Administration; 600-410, TANF State; 600-689, TANF Block 85139  
Grant; 600-620, Social Services Block Grant; 600-523, Children and 85140  
Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 85141  
600-617, Child Care Federal; 600-623, Health Care Federal; and 85142  
600-614, Refugees Services, the Department of Job and Family 85143  
Services may establish a single allocation for county departments 85144  
of job and family services. The county department is not required 85145

to use all the money from one or more of the appropriation items 85146  
listed in this paragraph for the purpose for which the specific 85147  
appropriation item is made so long as the county department uses 85148  
the money for a purpose for which at least one of the other of 85149  
those appropriation items is made. The county department may not 85150  
use the money in the allocation for a purpose other than a purpose 85151  
any of those appropriation items are made. If the spending 85152  
estimates used in establishing the single allocation are not 85153  
realized and the county department uses money in one or more of 85154  
those appropriation items in a manner for which federal financial 85155  
participation is not available, the department shall use state 85156  
funds available in one or more of those appropriation items to 85157  
ensure that the county department receives the full amount of its 85158  
allocation and complete a reconciliation at the end of the fiscal 85159  
year to appropriately align cash draws with expenditures related 85160  
to state and federal claims. 85161

To facilitate this reconciliation, before the thirty-first 85162  
day of May of the current fiscal year and after the conclusion of 85163  
the county reconciliation process for the previous fiscal year, 85164  
the Director of Job and Family Services may request that the 85165  
Director of Budget and Management transfer cash between the funds 85166  
that make-up the consolidated allocation to the county departments 85167  
of job and family services. 85168

**Section 58.10. TRANSFER OF FUNDS** 85169

The Department of Job and Family Services shall transfer, 85170  
through intrastate transfer vouchers, cash from State Special 85171  
Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and 85172  
Community-Based Services, in the Ohio Department of Mental 85173  
Retardation and Developmental Disabilities. The sum of the 85174  
transfers shall equal \$12,000,000 in fiscal year 2004 and 85175  
\$12,000,000 in fiscal year 2005. The transfer may occur on a 85176

quarterly basis or on a schedule developed and agreed to by both departments. 85177  
85178

The Department of Job and Family Services shall transfer, 85179  
through intrastate transfer vouchers, cash from the State Special 85180  
Revenue Fund 4J5, Home and Community-Based Services for the Aged, 85181  
to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the 85182  
transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 85183  
in fiscal year 2005. The transfer may occur on a quarterly basis 85184  
or on a schedule developed and agreed to by both departments. 85185

**TRANSFERS OF IMD/DSH CASH** 85186

The Department of Job and Family Services shall transfer, 85187  
through intrastate transfer voucher, cash from fund 5C9, Medicaid 85188  
Program Support, to the Department of Mental Health's Fund 4X5, 85189  
OhioCare, in accordance with an interagency agreement which 85190  
delegates authority from the Department of Job and Family Services 85191  
to the Department of Mental Health to administer specified 85192  
Medicaid services. 85193

**Section 58.11. EMPLOYER SURCHARGE** 85194

The surcharge and the interest on the surcharge amounts due 85195  
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 85196  
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 85197  
118th General Assembly, and section 4141.251 of the Revised Code 85198  
as it existed prior to Sub. H.B. 478 of the 122nd General 85199  
Assembly, again shall be assessed and collected by, accounted for, 85200  
and made available to the Department of Job and Family Services in 85201  
the same manner as set forth in section 4141.251 of the Revised 85202  
Code as it existed prior to Sub. H.B. 478 of the 122nd General 85203  
Assembly, notwithstanding the repeal of the surcharge for calendar 85204  
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 85205  
Assembly, except that amounts received by the Director on or after 85206  
July 1, 2001, shall be deposited into the special administrative 85207

fund established pursuant to section 4141.11 of the Revised Code. 85208

**Section 58.12. FUNDING FOR HABILITATIVE SERVICES** 85209

Notwithstanding any limitations contained in sections 5112.31 85210  
and 5112.37 of the Revised Code, in each fiscal year, cash from 85211  
State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess 85212  
of the amounts needed for transfers to Fund 4K8 may be used by the 85213  
Department of Job and Family Services to cover costs of care 85214  
provided to participants in a waiver with an ICF/MR level of care 85215  
requirement administered by the Department of Job and Family 85216  
Services. 85217

**Section 58.13. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND** 85218  
**THE OHIO ACCESS SUCCESS PROJECT** 85219

Notwithstanding any limitations in sections 3721.51 and 85220  
3721.56 of the Revised Code, in each fiscal year, cash from the 85221  
State Special Revenue Fund 4J5, Home and Community-Based Services 85222  
for the Aged, in excess of the amounts needed for the transfers 85223  
may be used by the Department of Job and Family Services for the 85224  
following purposes: (A) up to \$1.0 million in each fiscal year to 85225  
fund the state share of audits of Medicaid cost reports filed with 85226  
the Department of Job and Family Services by nursing facilities 85227  
and intermediate care facilities for the mentally retarded; and 85228  
(B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in 85229  
fiscal year 2005 to provide one-time transitional benefits under 85230  
the Ohio Access Success Project that the Director of Job and 85231  
Family Services may establish under section 5111.206 of the 85232  
Revised Code. 85233

**Section 58.14. REFUND OF SETS PENALTY** 85234

The Department of Job and Family Services shall deposit any 85235  
refunds for penalties that were paid directly or indirectly by the 85236

state for the Support Enforcement Tracking System (SETS) to Fund 85237  
3V6, TANF Block Grant. 85238

**Section 58.15.** PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY 85239

The Director of Job and Family Services may submit to the 85240  
United States Secretary of Health and Human Services a request to 85241  
transfer the day-to-day administration of the Program of 85242  
All-Inclusive Care for the Elderly, known as PACE, in accordance 85243  
with 42 U.S.C. 1396u-4, to the Department of Aging. If the United 85244  
States Secretary approves the transfer, the Directors of Job and 85245  
Family Services and Aging may enter into an interagency agreement 85246  
under section 5111.86 of the Revised Code to transfer 85247  
responsibility for the day-to-day administration of PACE from the 85248  
Department of Job and Family Services to the Department of Aging. 85249  
The interagency agreement is subject to the approval of the 85250  
Director of Budget and Management and shall include an estimated 85251  
cost of services to be provided under PACE and an estimated cost 85252  
for the administrative duties assigned by the agreement to the 85253  
Department of Aging. 85254

If the Directors of Job and Family Services and Aging enter 85255  
into the interagency agreement, the Director of Budget and 85256  
Management shall reduce the amount in appropriation item 600-525, 85257  
Health Care/Medicaid, by the estimated costs of PACE. If the 85258  
Director of Budget and Management makes the reduction, the state 85259  
and federal share of the estimated costs of PACE services and 85260  
administration is hereby appropriated to the Department of Aging. 85261  
The Director of Budget and Management shall establish a new 85262  
appropriation item for the appropriation. 85263

**Section 58.18.** APPROPRIATIONS FROM FUND 3V0 85264

Upon the request of the Department of Job and Family 85265  
Services, the Director of Budget and Management may increase 85266

appropriations in either appropriation item 600-662, WIA Ohio 85267  
Option #7, Fund 3V0 or in appropriation item 600-688, Workforce 85268  
Investment Act, Fund 3V0, with a corresponding decrease in the 85269  
other appropriation item supported by Fund 3V0 to allow counties 85270  
that administer the Workforce Investment Act as a conventional 85271  
county to administer the Act as an Ohio Option county or to allow 85272  
counties that administer the Workforce Investment Act as an Ohio 85273  
Option county to administer the Act as a conventional county. 85274

JOBS FOR OHIO GRADUATES PROGRAM 85275

Pursuant to an interagency agreement entered into between the 85276  
Department of Job and Family Services and the Department of 85277  
Education, \$1,750,000 from Workforce Investment Act funds (Fund 85278  
3V0), reserved for statewide workforce investment activities, in 85279  
fiscal year 2004 and fiscal year 2005, shall be used to support 85280  
the Jobs for Ohio Graduates programs administered by the 85281  
Department of Education. 85282

**Section 58.19.** FEDERAL UNEMPLOYMENT PROGRAMS 85283

There is hereby appropriated out of funds made available to 85284  
the state under section 903(d) of the Social Security Act, as 85285  
amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for 85286  
fiscal year 2005. Upon the request of the Director of Job and 85287  
Family Services, the Director of Budget and Management shall 85288  
increase the appropriation for fiscal year 2004 by the amount 85289  
remaining unspent from the fiscal year 2003 appropriation and 85290  
shall increase the appropriation for fiscal year 2005 by the 85291  
amount remaining unspent from the fiscal year 2004 appropriation. 85292  
The appropriation is to be used under the direction of the 85293  
Department of Job and Family Services to pay for administrative 85294  
activities for the Unemployment Insurance Program, employment 85295  
services, and other allowable expenditures under section 903(d) of 85296  
the Social Security Act, as amended. 85297

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) 85328  
the amount that the hospital was paid under that rule for that 85329  
period. 85330

**Section 58.20a. MEDICAID PAYMENTS FOR OUTPATIENT HOSPITAL 85331**  
SERVICES 85332

As used in this section, "hospital" does not include a 85333  
children's hospital as defined in the section of this act titled 85334  
MEDICAID PAYMENT TO CHILDREN'S HOSPITALS. 85335

The Department of Job and Family Services shall increase the 85336  
total amount the Department pays all hospitals under the Medicaid 85337  
Program for outpatient services provided during the period 85338  
beginning July 1, 2003, and ending June 30, 2004, to the maximum 85339  
extent possible using \$9,811,136 from the foregoing appropriation 85340  
item 600-525, Health Care/Medicaid. The Department of Job and 85341  
Family Services shall also increase the total amount the 85342  
Department pays all hospitals under the Medicaid Program for 85343  
outpatient services provided during the period beginning July 1, 85344  
2004, and ending June 30, 2005, to the maximum extent possible 85345  
using \$9,811,136 from the foregoing appropriation item 600-525, 85346  
Health Care/Medicaid. The Department shall make the increase in 85347  
accordance with an inflation adjustment factor for outpatient 85348  
hospital services established in rules the Director of Job and 85349  
Family Services shall adopt in accordance with Chapter 119. of the 85350  
Revised Code. 85351

**Section 58.21. CHILD CARE 85352**

(A) Notwithstanding any other provision of law, the Director 85353  
of Job and Family Services shall not reduce the initial and 85354  
continued eligibility level for publicly funded child care below 85355  
one hundred fifty per cent of the federal poverty line during 85356  
fiscal years 2004 and 2005. 85357

(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 85386  
Representatives, and three by the President of the Senate. 85387  
Appointments shall be made not later than ninety days after the 85388  
effective date of this section. All members shall serve at the 85389  
pleasure of the appointing authority. Members shall serve without 85390  
compensation. Vacancies shall be filled in the manner of original 85391  
appointments. 85392

The Commission shall conduct a complete review of the state 85393  
Medicaid program and shall make recommendations for comprehensive 85394  
reform and cost containment. The Commission shall submit a report 85395  
of its findings and recommendations to the Governor, Speaker, and 85396  
Senate President not later than January 1, 2005. 85397

The Commission may hire a staff director and additional 85398  
employees to provide technical support. 85399

The Director of Job and Family Services shall, on behalf of 85400  
the Commission, seek federal financial participation for the 85401  
administrative costs of the Commission. 85402

**Section 58.30.** Of the foregoing appropriation item 600-416, 85403  
Computer Projects, \$500,000 in each fiscal year shall be used by 85404  
the Department of Job and Family Services for costs associated 85405  
with staff, purchased services, equipment, and maintenance of the 85406  
Statewide Automated Child Welfare Information System (SACWIS). 85407  
These earmarked dollars are intended to supplement appropriations 85408  
in appropriation item 600-423, Office of Children and Families, 85409  
that are used for SACWIS. These earmarked dollars shall be in 85410  
addition to any other amounts that the Department plans to spend 85411  
on SACWIS. The Department shall plan its spending on SACWIS from 85412  
appropriation item 600-416, Computer Projects, without regard to 85413  
this earmark. 85414

**Section 58.31.** MEDICAID REIMBURSEMENT RATES FOR NURSING 85415

FACILITIES	85416
(A) As used in this section:	85417
(1) "Change of operator," "entering operator," and "exiting operator," have the same meaning as in section 5111.65 of the Revised Code.	85418 85419 85420
(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.	85421 85422 85423 85424 85425 85426 85427 85428 85429
(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.	85430 85431 85432 85433 85434 85435 85436 85437 85438 85439 85440 85441 85442 85443 85444
(4) "Provider" and "provider agreement" have the same meaning as in section 5111.20 of the Revised Code.	85445 85446

(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 85478  
with division (C) of this section; 85479

(6) If one or more Medicaid certified beds are added to the 85480  
nursing facility after July 1, 2003, and before July 1, 2004, the 85481  
provider's rate for the added beds shall be the same as the 85482  
provider's rate for the Medicaid certified beds that are in the 85483  
nursing facility on the day before the new beds are added. 85484

(C) For the purpose of divisions (B)(1), (2), and (5) of this 85485  
section and in accordance with rules the Director of Job and 85486  
Family Services shall adopt in accordance with Chapter 119. of the 85487  
Revised Code, the Department of Job and Family Services shall 85488  
increase the Medicaid reimbursement rate for nursing facility 85489  
services provided to a Medicaid recipient during the period 85490  
beginning July 1, 2003, and ending June 30, 2004, as follows: 85491

(1) To the maximum extent possible using \$16,489,281 from the 85492  
foregoing appropriation item 600-525, Health Care/Medicaid. 85493

(2) By forty-five cents per Medicaid day using \$11,763,298 85494  
from the foregoing appropriation item 600-608, Medicaid-Nursing 85495  
Facilities, and \$16,809,201 from the foregoing appropriation item 85496  
600-623, Health Care Federal; 85497

(3) To the maximum extent possible using the funds specified 85498  
in division (C)(2) of this section that remain after the increase 85499  
is made under that division. 85500

(D) Notwithstanding Chapter 5111. of the Revised Code or any 85501  
other state law to the contrary and subject to division (F) of 85502  
this section, the Medicaid reimbursement rate for nursing facility 85503  
services provided to a Medicaid recipient during the period 85504  
beginning July 1, 2004, and ending June 30, 2005, shall be as 85505  
follows: 85506

(1) If the provider has a valid provider agreement regarding 85507  
the nursing facility on June 30, 2004, the provider's rate for the 85508

nursing facility shall be the same as the provider's rate for the 85509  
nursing facility in effect on June 30, 2004, increased in 85510  
accordance with division (E) of this section; 85511

(2) If the nursing facility undergoes a change of operator on 85512  
July 1, 2004, the entering operator's rate for the nursing 85513  
facility shall be the same as the exiting operator's rate for the 85514  
nursing facility that is in effect on June 30, 2004, increased in 85515  
accordance with division (E) of this section; 85516

(3) If the nursing facility undergoes a change of operator 85517  
after July 1, 2004, the entering operator's rate for the nursing 85518  
facility shall be the same as the exiting operator's rate for the 85519  
nursing facility that is in effect on the day before the effective 85520  
date of the entering operator's provider agreement; 85521

(4) If the nursing facility both obtains initial 85522  
certification as a nursing facility from the Director of Health 85523  
and begins participation in the Medicaid program after June 30, 85524  
2004, the provider's rate for the nursing facility shall be the 85525  
median of all rates paid to nursing facilities on July 1, 2004; 85526

(5) If one or more Medicaid certified beds are added to the 85527  
nursing facility on July 1, 2004, the provider's rate for the 85528  
added beds shall be the same as the provider's rate that is in 85529  
effect on June 30, 2004, for the Medicaid certified beds that are 85530  
in the nursing facility on June 30, 2004, increased in accordance 85531  
with division (E) of this section; 85532

(6) If one or more Medicaid certified beds are added to the 85533  
nursing facility after July 1, 2004, the provider's rate for the 85534  
added beds shall be the same as the provider's rate for the 85535  
Medicaid certified beds that are in the nursing facility on the 85536  
day before the new beds are added. 85537

(E) For the purpose of divisions (D)(1), (2), and (5) of this 85538  
section and in accordance with rules the Director of Job and 85539

Family Services shall adopt in accordance with Chapter 119. of the 85540  
Revised Code, the Department of Job and Family Services shall 85541  
increase the Medicaid reimbursement rate for nursing facility 85542  
services provided to a Medicaid recipient during the period 85543  
beginning July 1, 2004, and ending June 30, 2005, as follows: 85544

(1) To the maximum extent possible using \$93,591,290 from the 85545  
foregoing appropriation item 600-525, Health Care/Medicaid. 85546

(2) By twenty cents per Medicaid day using \$20,912,529 from 85547  
the foregoing appropriation item 600-608, Medicaid-Nursing 85548  
Facilities, and \$29,883,024 from the foregoing appropriation item 85549  
600-623, Health Care Federal; 85550

(3) To the maximum extent possible using the funds specified 85551  
in division (E)(2) of this section that remain after the increase 85552  
is made under that division. 85553

(F) A nursing facility's reimbursement rate for services 85554  
provided to a Medicaid recipient during any part of the period 85555  
beginning July 1, 2003, and ending June 30, 2005, shall be 85556  
adjusted to reflect each audit adjustment made to each cost report 85557  
used to establish the June 30, 2003, rate on which the nursing 85558  
facility's reimbursement rate for services provided during any 85559  
part of the period beginning July 1, 2003, and ending June 30, 85560  
2005, is based. This division does not affect a nursing facility's 85561  
reimbursement rate determined under division (B)(4) or (D)(4) of 85562  
this section. 85563

**Section 58.32. MEDICAID REIMBURSEMENT RATES FOR ICFs/MR** 85564

(A) As used in this section: 85565

(1) "Change of operator," "entering operator," and "exiting 85566  
operator" have the same meaning as in section 5111.65 of the 85567  
Revised Code. 85568

(2) "Intermediate care facility for the mentally retarded" 85569

means an intermediate care facility for the mentally retarded 85570  
certified as in compliance with applicable standards for the 85571  
Medicaid program by the Director of Health in accordance with 85572  
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 85573  
U.S.C. 1396, as amended, and participates in the Medicaid program 85574  
established under Chapter 5111. of the Revised Code, except that 85575  
it does not include an intermediate care facility for the mentally 85576  
retarded that is operated by the Department of Mental Retardation 85577  
and Developmental Disabilities and has its Medicaid reimbursement 85578  
rate computed in accordance with section 5111.291 of the Revised 85579  
Code. 85580

(3) "Medicaid day" means all days during which a resident who 85581  
is a Medicaid recipient occupies a bed in an intermediate care 85582  
facility for the mentally retarded that is included in the 85583  
facility's certified capacity under Title XIX of the "Social 85584  
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 85585  
Therapeutic or hospital leave days for which payment would be made 85586  
under section 5111.33 of the Revised Code if not for this section 85587  
are considered Medicaid days proportionate to the percentage of 85588  
the intermediate care facility for the mentally retarded's per 85589  
resident per day rate paid for those days. 85590

(4) "Provider" and "provider agreement" have the same meaning 85591  
as in section 5111.20 of the Revised Code. 85592

(B) Notwithstanding Chapter 5111. of the Revised Code or any 85593  
other state law to the contrary and subject to division (F) of 85594  
this section, the Medicaid reimbursement rate for intermediate 85595  
care facility services for the mentally retarded provided to a 85596  
Medicaid recipient during the period beginning July 1, 2003, and 85597  
ending June 30, 2004, shall be as follows: 85598

(1) If the provider has a valid provider agreement regarding 85599  
the intermediate care facility for the mentally retarded on June 85600  
30, 2003, the provider's rate for the facility shall be the same 85601

as the provider's rate for the facility in effect on June 30, 85602  
2003, increased in accordance with division (C) of this section; 85603

(2) If the intermediate care facility for the mentally 85604  
retarded undergoes a change of operator on July 1, 2003, the 85605  
entering operator's rate for the facility shall be the same as the 85606  
exiting operator's rate for the facility that is in effect on June 85607  
30, 2003, increased in accordance with division (C) of this 85608  
section; 85609

(3) If the intermediate care facility for the mentally 85610  
retarded undergoes a change of operator after July 1, 2003, and 85611  
before July 1, 2004, the entering operator's rate for the facility 85612  
shall be the same as the exiting operator's rate for the facility 85613  
that is in effect on the day before the effective date of the 85614  
entering operator's provider agreement; 85615

(4) If the intermediate care facility for the mentally 85616  
retarded both obtains initial certification as an intermediate 85617  
care facility for the mentally retarded from the Director of 85618  
Health and begins participation in the Medicaid program after June 85619  
30, 2003, the provider's rate for the facility shall be the median 85620  
of all rates paid to intermediate care facilities for the mentally 85621  
retarded on July 1, 2003; 85622

(5) If one or more Medicaid certified beds are added to the 85623  
intermediate care facility for the mentally retarded on July 1, 85624  
2003, the provider's rate for the added beds shall be the same as 85625  
the provider's rate that is in effect on June 30, 2003, for the 85626  
Medicaid certified beds that are in the facility on June 30, 2003, 85627  
increased in accordance with division (C) of this section; 85628

(6) If one or more Medicaid certified beds are added to the 85629  
intermediate care facility for the mentally retarded after July 1, 85630  
2003, and before July 1, 2004, the provider's rate for the added 85631  
beds shall be the same as the provider's rate for the Medicaid 85632

certified beds that are in facility on the day before the new beds are added. 85633  
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(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. 85635  
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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: 85648  
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85653

(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; 85654  
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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; 85659  
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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 85696  
from the foregoing appropriation item 600-525, Health 85697  
Care/Medicaid. However, no intermediate care facility for the 85698  
mentally retarded's Medicaid reimbursement rate for that period 85699  
shall exceed one hundred two per cent of its rate on June 30, 85700  
2004. 85701

(F) The reimbursement rate of an intermediate care facility 85702  
for the mentally retarded for services provided to a Medicaid 85703  
recipient during any part of the period beginning July 1, 2003, 85704  
and ending June 30, 2005, shall be adjusted to reflect each audit 85705  
adjustment made to each cost report used to establish the June 30, 85706  
2003, rate on which the facility's reimbursement rate for services 85707  
provided during any part of the period beginning July 1, 2003, and 85708  
ending June 30, 2005, is based. This division does not affect the 85709  
reimbursement rate of an intermediate care facility for the 85710  
mentally retarded determined under division (B)(4) or (D)(4) of 85711  
this section. 85712

**Section 58.33. DISABILITY ASSISTANCE TRANSITION** 85713

(A) Subject to the provisions of Chapter 5115. of the Revised 85714  
Code, as amended, enacted, and repealed by this act, the 85715  
Disability Financial Assistance Program constitutes a continuation 85716  
of the financial assistance component of the Disability Assistance 85717  
Program established under Chapter 5115. of the Revised Code, as it 85718  
existed prior to the effective date of this section, and the 85719  
Disability Medical Assistance Program constitutes a continuation 85720  
of the medical assistance component of the Disability Assistance 85721  
Program. 85722

Any business commenced but not completed on behalf of the 85723  
Disability Assistance Program shall be completed in the same 85724  
manner, and with the same effect, on behalf of the Disability 85725  
Financial Assistance Program and the Disability Medical Assistance 85726

Program. 85727

Except as provided in divisions (B) and (C) of this section, 85728  
all rules, orders, and determinations regarding the Disability 85729  
Assistance Program continue in effect as rules, orders, and 85730  
determinations regarding the Disability Financial Assistance 85731  
Program and the Disability Medical Assistance Program, until 85732  
modified or rescinded. 85733

Wherever the Disability Assistance Program is referred to in 85734  
any law, contract, or other document, the reference shall be 85735  
deemed to refer to the Disability Financial Assistance Program or 85736  
the Disability Medical Assistance Program, whichever is 85737  
appropriate. 85738

(B) Notwithstanding any determination through administrative 85739  
or judicial order or otherwise, a person who was receiving 85740  
financial assistance under the Disability Assistance Program prior 85741  
to the effective date of this section ceases to be eligible for 85742  
continued financial assistance under the Disability Financial 85743  
Assistance Program on the effective date of this section, unless 85744  
one of the following is the case: 85745

(1) The person was receiving the assistance on the basis of 85746  
being age 60 or older or on the basis of being unable to do any 85747  
substantial or gainful activity by reason of a medically 85748  
determinable physical or mental impairment that can be expected to 85749  
result in death or has lasted or can be expected to last for not 85750  
less than nine months. 85751

(2) The person was receiving the assistance by meeting other 85752  
eligibility requirements but applies for Disability Financial 85753  
Assistance pursuant to section 5115.05 of the Revised Code, as 85754  
amended by this act, and receives a determination of eligibility 85755  
by meeting the requirements specified in section 5115.01 of the 85756  
Revised Code, as amended by this act. 85757

(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. 85789

**Section 58.35.** STUDY OF MEDICAID COVERAGE FOR BREAST AND 85790  
CERVICAL CANCER TREATMENT 85791

(A) The Department of Job and Family Services shall conduct a 85792  
study of the feasibility of expanding the Medicaid coverage 85793  
provided under section 5111.0110 of the Revised Code pursuant to 85794  
the "Breast and Cervical Cancer Prevention and Treatment Act of 85795  
2000," 114 Stat. 1381, 42 U.S.C. 1396a, as amended. In particular, 85796  
the Department shall study the extension of coverage to women who 85797  
receive breast and cervical cancer screenings that are not 85798  
directly paid for with federal funds obtained under Title XV of 85799  
the "Public Health Service Act," 104 Stat. 409 (1990), 42 U.S.C., 85800  
as amended. The study of this extension shall include 85801  
consideration of both of the following options, as specified by 85802  
the federal Centers for Medicare and Medicaid Services: 85803

(1) Coverage of women who have been screened under a Title 85804  
XV-funded Centers for Disease Control and Prevention Breast and 85805  
Cervical Cancer Early Detection Program in which their particular 85806  
clinical services were not paid for with Title XV funds, but the 85807  
services were rendered by a provider or an entity funded at least 85808  
in part with Title XV funds, and the services were within the 85809  
scope of a grant, sub-grant, or contract under the breast and 85810  
cervical cancer early detection program and the Title XV grantee 85811  
has elected to include such screening activities by that provider 85812  
or entity as screening activities pursuant to Title XV; 85813

(2) Coverage of women who have been screened by any other 85814  
provider or entity and the Title XV grantee has elected to include 85815  
screening activities by that provider or entity as screening 85816  
activities pursuant to Title XV. 85817

(B) Not later than October 1, 2003, the Department shall 85818  
complete its study and prepare a report of its findings and 85819

recommendations. The Department shall submit a copy of its report 85820  
to the President of the Senate, Speaker of the House of 85821  
Representatives, and Director of Budget and Management. Copies of 85822  
the report shall be made available to the public on request. 85823

**Section 58.36.** Pursuant to 7 U.S.C. 2015(o)(4), the 85824  
Department of Job and Family Services shall request that the 85825  
United States Secretary of Agriculture waive the applicability of 85826  
the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 85827  
2004 and 2005 to food stamp benefit recipients who reside in a 85828  
county of this state that the Department determines has had an 85829  
unemployment rate of over 10 per cent for each of the four months 85830  
before the month in which the waiver is in effect for the county. 85831  
The Department shall make monthly determinations of which counties 85832  
the waiver shall be in effect in. No individual may be exempted 85833  
from the work requirements for more than a total of nine months 85834  
beginning July 1, 2003, and ending June 30, 2005. 85835

The Department shall report to the Speaker and Minority 85836  
Leader of the House of Representatives and President and Minority 85837  
Leader of the Senate on receipt or rejection of the waiver sought 85838  
under this section. 85839

**Section 59.** JCO JUDICIAL CONFERENCE OF OHIO 85840

General Revenue Fund 85841

GRF 018-321 Operating Expenses	\$	962,000	\$	957,000	85842
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TOTAL GRF General Revenue Fund	\$	962,000	\$	957,000	85843
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General Services Fund Group 85844

403 018-601 Ohio Jury Instructions	\$	200,000	\$	200,000	85845
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TOTAL GSF General Services Fund	\$	200,000	\$	200,000	85846
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	1,162,000	\$	1,157,000	85847
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STATE COUNCIL OF UNIFORM STATE LAWS 85848

Notwithstanding section 105.26 of the Revised Code, of the 85849  
foregoing appropriation item 018-321, Operating Expenses, up to 85850  
\$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 85851  
may be used to pay the expenses of the State Council of Uniform 85852  
State Laws, including membership dues to the National Conference 85853  
of Commissioners on Uniform State Laws. 85854

OHIO JURY INSTRUCTIONS FUND 85855

The Ohio Jury Instructions Fund (Fund 403) shall consist of 85856  
grants, royalties, dues, conference fees, bequests, devises, and 85857  
other gifts received for the purpose of supporting costs incurred 85858  
by the Judicial Conference of Ohio in dispensing educational and 85859  
informational data to the state's judicial system. Fund 403 shall 85860  
be used by the Judicial Conference of Ohio to pay expenses 85861  
incurred in dispensing educational and informational data to the 85862  
state's judicial system. All moneys accruing to Fund 403 in excess 85863  
of \$200,000 in fiscal year 2004 and in excess of \$200,000 in 85864  
fiscal year 2005 are hereby appropriated for the purposes 85865  
authorized. 85866

No money in the Ohio Jury Instructions Fund shall be 85867  
transferred to any other fund by the Director of Budget and 85868  
Management or the Controlling Board. 85869

**Section 60.** JSC THE JUDICIARY/SUPREME COURT 85870

General Revenue Fund				85871	
GRF 005-321 Operating Expenses -	\$	113,636,659	\$	118,401,294	85872
Judiciary/Supreme					
Court					
GRF 005-401 State Criminal	\$	346,194	\$	356,371	85873
Sentencing Council					
GRF 005-406 Law-Related Education	\$	209,836	\$	216,131	85874
TOTAL GRF General Revenue Fund	\$	114,192,689	\$	118,973,796	85875

General Services Fund Group				85876
672 005-601 Continuing Judicial	\$	126,000	\$ 120,000	85877
Education				
TOTAL GSF General Services Fund	\$	126,000	\$ 120,000	85878
Group				
Federal Special Revenue Fund Group				85879
3J0 005-603 Federal Grants	\$	1,030,061	\$ 1,030,061	85880
TOTAL FED Federal Special Revenue	\$	1,030,061	\$ 1,030,061	85881
Fund Group				
State Special Revenue Fund Group				85882
4C8 005-605 Attorney Registration	\$	2,332,733	\$ 2,495,171	85883
5T8 005-609 Grants and Awards	\$	33,296	\$ 33,296	85884
6A8 005-606 Supreme Court	\$	1,230,514	\$ 1,267,428	85885
Admissions				
643 005-607 Commission on	\$	568,788	\$ 587,210	85886
Continuing Legal				
Education				
TOTAL SSR State Special Revenue	\$	4,165,331	\$ 4,383,105	85887
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	119,514,081	\$ 124,506,962	85888
LAW-RELATED EDUCATION				85889
The foregoing appropriation item 005-406, Law-Related				85890
Education, shall be distributed directly to the Ohio Center for				85891
Law-Related Education for the purposes of providing continuing				85892
citizenship education activities to primary and secondary				85893
students, expanding delinquency prevention programs, increasing				85894
activities for at-risk youth, and accessing additional public and				85895
private money for new programs.				85896
CONTINUING JUDICIAL EDUCATION				85897
The Continuing Judicial Education Fund (Fund 672) shall				85898
consist of fees paid by judges and court personnel for attending				85899

continuing education courses and other gifts and grants received 85900  
for the purpose of continuing judicial education. The foregoing 85901  
appropriation item 005-601, Continuing Judicial Education, shall 85902  
be used to pay expenses for continuing education courses for 85903  
judges and court personnel. If it is determined by the 85904  
Administrative Director of the Supreme Court that additional 85905  
appropriations are necessary, the amounts are hereby appropriated. 85906

No money in the Continuing Judicial Education Fund shall be 85907  
transferred to any other fund by the Director of Budget and 85908  
Management or the Controlling Board. Interest earned on moneys in 85909  
the Continuing Judicial Education Fund shall be credited to the 85910  
fund. 85911

FEDERAL GRANTS 85912

The Federal Grants Fund (Fund 3J0) shall consist of grants 85913  
and other moneys awarded to the Supreme Court (The Judiciary) by 85914  
the United States Government or other entities that receive the 85915  
moneys directly from the United States Government and distribute 85916  
those moneys to the Supreme Court (The Judiciary). The foregoing 85917  
appropriation item 005-603, Federal Grants, shall be used in a 85918  
manner consistent with the purpose of the grant or award. If it is 85919  
determined by the Administrative Director of the Supreme Court 85920  
that additional appropriations are necessary, the amounts are 85921  
hereby appropriated. 85922

No money in the Federal Grants Fund shall be transferred to 85923  
any other fund by the Director of Budget and Management or the 85924  
Controlling Board. However, interest earned on moneys in the 85925  
Federal Grants Fund shall be credited or transferred to the 85926  
General Revenue Fund. 85927

ATTORNEY REGISTRATION 85928

In addition to funding other activities considered 85929  
appropriate by the Supreme Court, the foregoing appropriation item 85930

005-605, Attorney Registration, may be used to compensate 85931  
employees and fund the appropriate activities of the following 85932  
offices established by the Supreme Court pursuant to the Rules for 85933  
the Government of the Bar of Ohio: the Office of Disciplinary 85934  
Counsel, the Board of Commissioners on Grievances and Discipline, 85935  
the Clients' Security Fund, the Board of Commissioners on the 85936  
Unauthorized Practice of Law, and the Office of Attorney 85937  
Registration. If it is determined by the Administrative Director 85938  
of the Supreme Court that additional appropriations are necessary, 85939  
the amounts are hereby appropriated. 85940

No moneys in the Attorney Registration Fund shall be 85941  
transferred to any other fund by the Director of Budget and 85942  
Management or the Controlling Board. Interest earned on moneys in 85943  
the Attorney Registration Fund shall be credited to the fund. 85944

GRANTS AND AWARDS 85945

The Grants and Awards Fund (Fund 5T8) shall consist of grants 85946  
and other moneys awarded to the Supreme Court (The Judiciary) by 85947  
the State Justice Institute, the Office of Criminal Justice 85948  
Services, or other entities. The foregoing appropriation item 85949  
005-609, Grants and Awards, shall be used in a manner consistent 85950  
with the purpose of the grant or award. If it is determined by the 85951  
Administrative Director of the Supreme Court that additional 85952  
appropriations are necessary, the amounts are hereby appropriated. 85953

No moneys in the Grants and Awards Fund shall be transferred 85954  
to any other fund by the Director of Budget and Management or the 85955  
Controlling Board. However, interest earned on moneys in the 85956  
Grants and Awards Fund shall be credited or transferred to the 85957  
General Revenue Fund. 85958

SUPREME COURT ADMISSIONS 85959

The foregoing appropriation item 005-606, Supreme Court 85960  
Admissions, shall be used to compensate Supreme Court employees 85961

who are primarily responsible for administering the attorney 85962  
admissions program, pursuant to the Rules for the Government of 85963  
the Bar of Ohio, and to fund any other activities considered 85964  
appropriate by the court. Moneys shall be deposited into the 85965  
Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme 85966  
Court Rules for the Government of the Bar of Ohio. If it is 85967  
determined by the Administrative Director of the Supreme Court 85968  
that additional appropriations are necessary, the amounts are 85969  
hereby appropriated. 85970

No moneys in the Supreme Court Admissions Fund shall be 85971  
transferred to any other fund by the Director of Budget and 85972  
Management or the Controlling Board. Interest earned on moneys in 85973  
the Supreme Court Admissions Fund shall be credited to the fund. 85974

CONTINUING LEGAL EDUCATION 85975

The foregoing appropriation item 005-607, Commission on 85976  
Continuing Legal Education, shall be used to compensate employees 85977  
of the Commission on Continuing Legal Education, established 85978  
pursuant to the Supreme Court Rules for the Government of the Bar 85979  
of Ohio, and to fund other activities of the commission considered 85980  
appropriate by the court. If it is determined by the 85981  
Administrative Director of the Supreme Court that additional 85982  
appropriations are necessary, the amounts are hereby appropriated. 85983

No moneys in the Continuing Legal Education Fund shall be 85984  
transferred to any other fund by the Director of Budget and 85985  
Management or the Controlling Board. Interest earned on moneys in 85986  
the Continuing Legal Education Fund shall be credited to the fund. 85987

**Section 61.** LEC LAKE ERIE COMMISSION 85988

State Special Revenue Fund Group 85989

4C0 780-601 Lake Erie Protection \$ 1,070,975 \$ 1,070,975 85990

Fund

5D8 780-602 Lake Erie Resources	\$	689,004	\$	689,004	85991
Fund					
TOTAL SSR State Special Revenue					85992
Fund Group	\$	1,759,979	\$	1,759,979	85993
TOTAL ALL BUDGET FUND GROUPS	\$	1,759,979	\$	1,759,979	85994
CASH TRANSFER					
Not later than the thirtieth day of November of each fiscal					
year, the Executive Director of the Ohio Lake Erie Office, with					
the approval of the Lake Erie Commission, shall certify to the					
Director of Budget and Management the cash balance in the Lake					
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet					
operating expenses of the Lake Erie Office. The Ohio Lake Erie					
Office may request the Director of Budget and Management to					
transfer up to the certified amount from the Lake Erie Resources					
Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The					
Director of Budget and Management may transfer the requested					
amount, or the Director may transfer a different amount up to the					
certified amount. Cash transferred shall be used for the purposes					
described in division (A) of section 1506.23 of the Revised Code.					
The amount transferred by the director is appropriated to the					
foregoing appropriation item 780-601, Lake Erie Protection Fund,					
which shall be increased by the amount transferred.					
<b>Section 62. LRS LEGAL RIGHTS SERVICE</b>					
General Revenue Fund					
GRF 054-100 Personal Services	\$	193,514	\$	193,514	86014
GRF 054-200 Maintenance	\$	33,938	\$	33,938	86015
GRF 054-300 Equipment	\$	1,856	\$	1,856	86016
GRF 054-401 Ombudsman	\$	291,247	\$	291,247	86017
TOTAL GRF General Revenue Fund	\$	520,555	\$	520,555	86018
General Services Fund Group					
416 054-601 Gifts and Donations	\$	1,352	\$	1,352	86020

5M0 054-610	Settlements	\$	75,000	\$	75,000	86021
TOTAL GSF General Services						86022
Fund Group		\$	76,352	\$	76,352	86023
Federal Special Revenue Fund Group						86024
3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279	86025
3N3 054-606	Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648	86026
3N9 054-607	Assistive Technology	\$	50,000	\$	50,000	86027
3R9 054-604	Family Support Collaborative	\$	242,500	\$	242,500	86028
3T2 054-609	Client Assistance Program	\$	404,807	\$	404,807	86029
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	86030
3Z6 054-612	Traumatic Brain Injury	\$	50,000	\$	50,000	86031
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363	86032
TOTAL FED Federal Special Revenue						86033
Fund Group		\$	3,741,381	\$	3,741,381	86034
TOTAL ALL BUDGET FUND GROUPS						86035
 <b>Section 63. JLE JOINT LEGISLATIVE ETHICS COMMITTEE</b>						86037
General Revenue Fund						86038
GRF 028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	86039

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	86040
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	86041

TRANSFER OF FUNDS TO GRF 86042

On July 1, 2003, or as soon thereafter as possible, the 86043  
 Director of Budget and Management shall transfer 50 per cent of 86044  
 the cash balance in the Joint Legislative Ethics Committee Fund 86045  
 (Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as 86046  
 soon thereafter as possible, the Director of Budget and Management 86047  
 shall transfer all of the remaining cash balance in the Joint 86048  
 Legislative Ethics Committee Fund (Fund 4G7) to the General 86049  
 Revenue Fund. 86050

**Section 64.** LSC LEGISLATIVE SERVICE COMMISSION 86051

General Revenue Fund 86052

GRF 035-321 Operating Expenses	\$	14,065,000	\$	14,770,000	86053
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GRF 035-402 Legislative Interns	\$	975,000	\$	990,000	86054
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GRF 035-404 Legislative Office of Education Oversight	\$	1,205,000	\$	1,256,427	86055
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GRF 035-405 Correctional Institution Inspection Committee	\$	200,000	\$	300,000	86056
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GRF 035-406 ATMS Replacement Project	\$	20,000	\$	20,000	86057
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GRF 035-407 Legislative Task Force on Redistricting	\$	100,000	\$	0	86058
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GRF 035-409 National Associations	\$	430,000	\$	441,000	86059
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GRF 035-410 Legislative Information Systems	\$	3,624,200	\$	3,624,200	86060
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TOTAL GRF General Revenue Fund	\$	20,619,200	\$	21,401,627	86061
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General Services Fund Group 86062

4F6 035-603 Legislative Budget Services	\$	149,350	\$	152,337	86063
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410 035-601	Sale of Publications	\$	25,000	\$	25,000	86064
TOTAL GSF General Services						86065
Fund Group		\$	174,350	\$	177,337	86066
TOTAL ALL BUDGET FUND GROUPS						86067
ATMS REPLACEMENT PROJECT						86068
Of the foregoing appropriation item 035-406, ATMS Replacement						86069
Project, any amounts not used for the ATMS project may be used to						86070
pay the operating expenses of the Legislative Service Commission.						86071
 <b>Section 65. LIB STATE LIBRARY BOARD</b>						86072
General Revenue Fund						86073
GRF 350-321	Operating Expenses	\$	6,700,721	\$	6,700,721	86074
GRF 350-400	Ohio Public Library	\$	0	\$	5,000,000	86075
Information Network						
GRF 350-401	Ohioana Rental	\$	124,816	\$	124,816	86076
Payments						
GRF 350-501	Cincinnati Public	\$	584,414	\$	569,803	86077
Library						
GRF 350-502	Regional Library	\$	1,194,374	\$	1,194,374	86078
Systems						
GRF 350-503	Cleveland Public	\$	879,042	\$	857,066	86079
Library						
TOTAL GRF General Revenue Fund						86080
General Services Fund Group						86081
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	86082
Charges						
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000	86083
459 350-602	Interlibrary Service	\$	2,759,661	\$	2,809,661	86084
Charges						
TOTAL GSF General Services						86085
Fund Group		\$	9,218,661	\$	3,818,661	86086

Federal Special Revenue Fund Group				86087	
313 350-601 LSTA Federal	\$	5,541,647	\$	5,541,647	86088
TOTAL FED Federal Special Revenue				86089	
Fund Group	\$	5,541,647	\$	5,541,647	86090
TOTAL ALL BUDGET FUND GROUPS	\$	24,243,675	\$	23,807,088	86091
OHIOANA RENTAL PAYMENTS				86092	
The foregoing appropriation item 350-401, Ohioana Rental				86093	
Payments, shall be used to pay the rental expenses of the Martha				86094	
Kinney Cooper Ohioana Library Association pursuant to section				86095	
3375.61 of the Revised Code.				86096	
CINCINNATI PUBLIC LIBRARY				86097	
The foregoing appropriation item 350-501, Cincinnati Public				86098	
Library, shall be used for the Talking Book program, which assists				86099	
the blind and disabled.				86100	
REGIONAL LIBRARY SYSTEMS				86101	
The foregoing appropriation item 350-502, Regional Library				86102	
Systems, shall be used to support regional library systems				86103	
eligible for funding under section 3375.90 of the Revised Code.				86104	
CLEVELAND PUBLIC LIBRARY				86105	
The foregoing appropriation item 350-503, Cleveland Public				86106	
Library, shall be used for the Talking Book program, which assists				86107	
the blind and disabled.				86108	
OHIO PUBLIC LIBRARY INFORMATION NETWORK				86109	
The foregoing appropriation items 350-604, OPLIN Technology,				86110	
and, in fiscal year 2005, 350-400, Ohio Public Library Information				86111	
Network, shall be used for an information telecommunications				86112	
network linking public libraries in the state and such others as				86113	
may be certified as participants by the Ohio Public Library				86114	
Information Network Board.				86115	

The Ohio Public Library Information Network Board shall 86116  
consist of eleven members appointed by the State Library Board 86117  
from among the staff of public libraries and past and present 86118  
members of boards of trustees of public libraries, based on the 86119  
recommendations of the Ohio library community. The Ohio Public 86120  
Library Information Network Board, in consultation with the State 86121  
Library, shall develop a plan of operations for the network. The 86122  
board may make decisions regarding use of the foregoing OPLIN 86123  
appropriation items 350-604 and may receive and expend grants to 86124  
carry out the operations of the network in accordance with state 86125  
law and the authority to appoint and fix the compensation of a 86126  
director and necessary staff. The State Library shall be the 86127  
fiscal agent for the network and shall have fiscal accountability 86128  
for the expenditure of funds. The Ohio Public Library Information 86129  
Network Board members shall be reimbursed for actual travel and 86130  
necessary expenses incurred in carrying out their 86131  
responsibilities. 86132

In order to limit access to obscene and illegal materials 86133  
through internet use at Ohio Public Library Information Network 86134  
(OPLIN) terminals, local libraries with OPLIN computer terminals 86135  
shall adopt policies that control access to obscene and illegal 86136  
materials. These policies may include use of technological systems 86137  
to select or block certain internet access. The OPLIN shall 86138  
condition provision of its funds, goods, and services on 86139  
compliance with these policies. The OPLIN Board shall also adopt 86140  
and communicate specific recommendations to local libraries on 86141  
methods to control such improper usage. These methods may include 86142  
each library implementing a written policy controlling such 86143  
improper use of library terminals and requirements for parental 86144  
involvement or written authorization for juvenile internet usage. 86145

The OPLIN Board shall research and assist or advise local 86146  
libraries with regard to emerging technologies and methods that 86147

may be effective means to control access to obscene and illegal 86148  
materials. The OPLIN Executive Director shall biannually provide 86149  
written reports to the Governor, the Speaker and Minority Leader 86150  
of the House of Representatives, and the President and Minority 86151  
Leader of the Senate on any steps being taken by OPLIN and public 86152  
libraries in the state to limit and control such improper usage as 86153  
well as information on technological, legal, and law enforcement 86154  
trends nationally and internationally affecting this area of 86155  
public access and service. 86156

The Ohio Public Library Information Network, InfOhio, and 86157  
OhioLink shall, to the extent feasible, coordinate and cooperate 86158  
in their purchase or other acquisition of the use of electronic 86159  
databases for their respective users and shall contribute funds in 86160  
an equitable manner to such effort. 86161

TRANSFER TO OPLIN TECHNOLOGY FUND 86162

Notwithstanding sections 5747.03 and 5747.47 of the Revised 86163  
Code and any other provision of law to the contrary, in accordance 86164  
with a schedule established by the Director of Budget and 86165  
Management, the Director of Budget and Management shall transfer 86166  
up to \$5,000,000 in fiscal year 2004 from the Library and Local 86167  
Government Support Fund (Fund 065) to the OPLIN Technology Fund 86168  
(Fund 4S4). 86169

**Section 66.** LCO LIQUOR CONTROL COMMISSION 86170

Liquor Control Fund Group 86171

043 970-321 Operating Expenses	\$	779,886	\$	794,387	86172
TOTAL LCF Liquor Control Fund Group	\$	779,886	\$	794,387	86173
TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$	794,387	86174

COMPUTER EQUIPMENT 86175

Of the foregoing appropriation item 970-321, Operating 86176  
Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 86177

2005 shall be used for computer equipment. 86178

**Section 67.** LOT STATE LOTTERY COMMISSION 86179

State Lottery Fund Group 86180

044 950-100 Personal Services \$ 25,114,200 \$ 25,133,314 86181

044 950-200 Maintenance \$ 20,100,168 \$ 20,120,268 86182

044 950-300 Equipment \$ 3,067,250 \$ 3,113,259 86183

044 950-402 Game and Advertising \$ 68,683,000 \$ 68,683,000 86184

Contracts

044 950-500 Problem Gambling \$ 335,000 \$ 335,000 86185

Subsidy

044 950-601 Prizes, Bonuses, and \$ 166,173,455 \$ 166,173,455 86186

Commissions

871 950-602 Annuity Prizes \$ 162,228,451 \$ 162,185,260 86187

TOTAL SLF State Lottery Fund 86188

Group \$ 445,701,524 \$ 445,743,556 86189

TOTAL ALL BUDGET FUND GROUPS \$ 445,701,524 \$ 445,743,556 86190

OPERATING EXPENSES 86191

The Controlling Board may, at the request of the State 86192  
Lottery Commission, authorize additional appropriations for 86193  
operating expenses of the State Lottery Commission from the State 86194  
Lottery Fund up to a maximum of 15 per cent of anticipated total 86195  
revenue accruing from the sale of lottery tickets. 86196

PRIZES, BONUSES, AND COMMISSIONS 86197

Any amounts, in addition to the amounts appropriated in 86198  
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 86199  
are determined by the Director of the State Lottery Commission to 86200  
be necessary to fund prizes, bonuses, and commissions are hereby 86201  
appropriated. 86202

ANNUITY PRIZES 86203

With the approval of the Office of Budget and Management, the 86204

State Lottery Commission shall transfer cash from the State 86205  
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 86206  
(Fund 871) in an amount sufficient to fund deferred prizes. The 86207  
Treasurer of State, from time to time, shall credit the Deferred 86208  
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 86209  
by the Treasurer of State on invested balances. 86210

Any amounts, in addition to the amounts appropriated in 86211  
appropriation item 950-602, Annuity Prizes, that are determined by 86212  
the Director of the State Lottery Commission to be necessary to 86213  
fund deferred prizes and interest earnings are hereby 86214  
appropriated. 86215

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 86216

The Ohio Lottery Commission shall transfer an amount greater 86217  
than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 86218  
in fiscal year 2005 to the Lottery Profits Education Fund. 86219  
Transfers from the Commission to the Lottery Profits Education 86220  
Fund shall represent the estimated net income from operations for 86221  
the Commission in fiscal year 2004 or fiscal year 2005. Transfers 86222  
by the Commission to the Lottery Profits Education Fund shall be 86223  
administered in accordance with and pursuant to the Revised Code. 86224  
The unencumbered and unallotted balances as of June 30, 2003, in 86225  
the Unclaimed Prize Fund (Fund 872), are hereby transferred to the 86226  
State Lottery Fund Group (Fund 044). 86227

**Section 68.** MED STATE MEDICAL BOARD 86228

General Services Fund Group 86229  
5C6 883-609 State Medical Board \$ 7,098,956 \$ 7,199,935 86230  
Operating  
TOTAL GSF General Services 86231  
Fund Group \$ 7,098,956 \$ 7,199,935 86232  
TOTAL ALL BUDGET FUND GROUPS \$ 7,098,956 \$ 7,199,935 86233

Section 69. DMH DEPARTMENT OF MENTAL HEALTH				86235
Division of General Administration Intragovernmental Service Fund				86236
Group				86237
151 235-601 General Administration	\$ 85,181,973	\$ 85,181,973		86238
TOTAL ISF Intragovernmental				86239
Service Fund Group	\$ 85,181,973	\$ 85,181,973		86240
Division of Mental Health--				86241
Psychiatric Services to Correctional Facilities				86242
General Revenue Fund				86243
GRF 332-401 Forensic Services	\$ 4,338,858	\$ 4,338,858		86244
TOTAL GRF General Revenue Fund	\$ 4,338,858	\$ 4,338,858		86245
TOTAL ALL BUDGET FUND GROUPS	\$ 89,520,831	\$ 89,520,831		86246
FORENSIC SERVICES				86247
The foregoing appropriation item 322-401, Forensic Services,				86248
shall be used to provide psychiatric services to courts of common				86249
pleas. The appropriation shall be allocated through community				86250
mental health boards to certified community agencies and shall be				86251
distributed according to the criteria delineated in rule				86252
5122:4-1-01 of the Administrative Code. These community forensic				86253
funds may also be used to provide forensic training to community				86254
mental health boards and to forensic psychiatry residency programs				86255
in hospitals operated by the Department of Mental Health and to				86256
provide evaluations of patients of forensic status in facilities				86257
operated by the Department of Mental Health prior to conditional				86258
release to the community.				86259
In addition, appropriation item 332-401, Forensic Services,				86260
may be used to support projects involving mental health, substance				86261
abuse, courts, and law enforcement to identify and develop				86262
appropriate alternative services to institutionalization for				86263
nonviolent mentally ill offenders, and to provide linkage to				86264

community services for severely mentally disabled offenders				86265
released from institutions operated by the Department of				86266
Rehabilitation and Correction. Funds may also be utilized to				86267
provide forensic monitoring and tracking in addition to community				86268
programs serving persons of forensic status on conditional release				86269
or probation.				86270
				86271
Division of Mental Health--				86272
Administration and Statewide Programs				86273
General Revenue Fund				86274
GRF 333-321 Central Administration	\$	22,808,798	\$ 24,178,778	86275
GRF 333-402 Resident Trainees	\$	1,364,919	\$ 1,364,919	86276
GRF 333-403 Pre-Admission	\$	650,135	\$ 650,135	86277
Screening Expenses				86278
GRF 333-415 Lease-Rental Payments	\$	25,935,650	\$ 23,206,750	86279
GRF 333-416 Research Program	\$	1,001,551	\$ 1,001,551	86280
Evaluation				86281
TOTAL GRF General Revenue Fund	\$	51,761,053	\$ 50,402,133	86282
General Services Fund Group				86283
149 333-609 Central Office Rotary	\$	1,087,454	\$ 1,103,578	86284
- Operating				86285
TOTAL General Services Fund Group	\$	1,087,454	\$ 1,103,578	86286
Federal Special Revenue Fund Group				86287
3A7 333-612 Social Services Block	\$	25,000	\$ 0	86288
Grant				86289
3A8 333-613 Federal Grant -	\$	57,470	\$ 57,984	86290
Administration				86291
3A9 333-614 Mental Health Block	\$	827,363	\$ 835,636	86292
Grant				86293
3B1 333-635 Community Medicaid	\$	4,126,430	\$ 4,145,222	86294
Expansion				86295
324 333-605 Medicaid/Medicare	\$	523,761	\$ 514,923	86296
TOTAL Federal Special Revenue				86297

Fund Group	\$	5,560,024	\$	5,553,765	86290
State Special Revenue Fund Group					86291
4X5 333-607 Behavioral Health	\$	2,913,327	\$	3,000,634	86292
Medicaid Services					
485 333-632 Mental Health	\$	134,233	\$	134,233	86293
Operating					
5M2 333-602 PWLC Campus	\$	200,000	\$	200,000	86294
Improvement					
TOTAL State Special Revenue					86295
Fund Group	\$	3,247,560	\$	3,334,867	86296
TOTAL ALL BUDGET FUND GROUPS	\$	61,656,091	\$	60,394,343	86297

RESIDENCY TRAINEESHIP PROGRAMS 86298

The foregoing appropriation item 333-402, Resident Trainees, 86299  
shall be used to fund training agreements entered into by the 86300  
Department of Mental Health for the development of curricula and 86301  
the provision of training programs to support public mental health 86302  
services. 86303

PRE-ADMISSION SCREENING EXPENSES 86304

The foregoing appropriation item 333-403, Pre-Admission 86305  
Screening Expenses, shall be used to pay for costs to ensure that 86306  
uniform statewide methods for pre-admission screening are in place 86307  
to perform assessments for persons in need of mental health 86308  
services or for whom institutional placement in a hospital or in 86309  
another inpatient facility is sought. Pre-admission screening 86310  
includes the following activities: pre-admission assessment, 86311  
consideration of continued stay requests, discharge planning and 86312  
referral, and adjudication of appeals and grievance procedures. 86313

LEASE-RENTAL PAYMENTS 86314

The foregoing appropriation item 333-415, Lease-Rental 86315  
Payments, shall be used to meet all payments at the times they are 86316  
required to be made during the period from July 1, 2003, to June 86317

30, 2005, by the Department of Mental Health pursuant to leases 86318  
and agreements made under section 154.20 of the Revised Code, but 86319  
limited to the aggregate amount of \$49,142,400. Nothing in this 86320  
act shall be deemed to contravene the obligation of the state to 86321  
pay, without necessity for further appropriation, from the sources 86322  
pledged thereto, the bond service charges on obligations issued 86323  
pursuant to section 154.20 of the Revised Code. 86324

**Section 69.01. DIVISION OF MENTAL HEALTH - HOSPITALS** 86325

General Revenue Fund 86326

GRF 334-408 Community and Hospital \$ 380,249,629 \$ 390,506,082 86327  
Mental Health Services

GRF 334-506 Court Costs \$ 976,652 \$ 976,652 86328

TOTAL GRF General Revenue Fund \$ 381,226,281 \$ 391,482,734 86329

General Services Fund Group 86330

149 334-609 Hospital Rotary - \$ 22,908,053 \$ 24,408,053 86331  
Operating Expenses

150 334-620 Special Education \$ 120,930 \$ 120,930 86332

TOTAL GSF General Services 86333

Fund Group \$ 23,028,983 \$ 24,528,983 86334

Federal Special Revenue Fund Group 86335

3B0 334-617 Elementary and \$ 248,644 \$ 251,866 86336  
Secondary Education

Act

3B1 334-635 Hospital Medicaid \$ 2,000,000 \$ 2,000,000 86337  
Expansion

324 334-605 Medicaid/Medicare \$ 10,484,944 \$ 10,916,925 86338

TOTAL FED Federal Special Revenue 86339

Fund Group \$ 12,733,588 \$ 13,168,791 86340

State Special Revenue Fund Group 86341

485 334-632 Mental Health \$ 2,387,253 \$ 2,476,297 86342  
Operating

5L2 334-619	Health	\$	26,000	\$	0	86343
	Foundation/Greater Cincinnati					
692 334-636	Community Mental	\$	100,000	\$	100,000	86344
	Health Board Risk Fund					
TOTAL SSR	State Special Revenue					86345
Fund Group		\$	2,513,253	\$	2,576,297	86346
TOTAL ALL BUDGET FUND GROUPS		\$	419,502,105	\$	431,756,805	86347
	COMMUNITY MENTAL HEALTH BOARD RISK FUND					86348
	The foregoing appropriation item 334-636, Community Mental					86349
	Health Board Risk Fund, shall be used to make payments pursuant to					86350
	section 5119.62 of the Revised Code.					86351
	<b>Section 69.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT</b>					86352
	SERVICES					86353
	General Revenue Fund					86354
GRF 335-419	Community Medication	\$	7,711,092	\$	7,959,798	86355
	Subsidy					
GRF 335-505	Local MH Systems of	\$	89,687,868	\$	89,687,868	86356
	Care					
TOTAL GRF	General Revenue Fund	\$	97,398,960	\$	97,647,666	86357
	General Services Fund Group					86358
4P9 335-604	Community Mental	\$	200,000	\$	200,000	86359
	Health Projects					
TOTAL GSF	General Services					86360
Fund Group		\$	200,000	\$	200,000	86361
	Federal Special Revenue Fund Group					86362
3A7 335-612	Social Services Block	\$	9,314,108	\$	9,314,108	86363
	Grant					
3A8 335-613	Federal Grant -	\$	1,717,040	\$	1,717,040	86364
	Community Mental					

	Health Board Subsidy			
3A9	335-614	Mental Health Block	\$ 16,887,218	\$ 17,056,090 86365
	Grant			
3B1	335-635	Community Medicaid	\$ 220,472,136	\$ 237,766,721 86366
	Expansion			
TOTAL FED	Federal	Special Revenue	\$ 248,390,502	\$ 265,853,959 86367
Fund Group				
State Special Revenue Fund Group				86368
632	335-616	Community Capital	\$ 250,000	\$ 250,000 86369
	Replacement			
TOTAL SSR	State	Special Revenue	\$ 250,000	\$ 250,000 86370
Fund Group				
TOTAL ALL BUDGET FUND GROUPS				\$ 346,239,462 \$ 363,951,625 86371
DEPARTMENT TOTAL				86372
GENERAL REVENUE FUND				\$ 534,725,152 \$ 543,871,391 86373
DEPARTMENT TOTAL				86374
GENERAL SERVICES FUND GROUP				\$ 24,316,437 \$ 25,832,561 86375
DEPARTMENT TOTAL				86376
FEDERAL SPECIAL REVENUE				86377
FUND GROUP				\$ 266,684,114 \$ 284,576,515 86378
DEPARTMENT TOTAL				86379
STATE SPECIAL REVENUE FUND GROUP				\$ 6,010,813 \$ 6,161,164 86380
DEPARTMENT TOTAL				86381
INTRAGOVERNMENTAL FUND GROUP				\$ 85,181,973 \$ 85,181,973 86382
TOTAL DEPARTMENT OF MENTAL HEALTH				\$ 916,918,489 \$ 945,623,604 86383

**Section 69.03. COMMUNITY MEDICATION SUBSIDY** 86385

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. 86386  
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86390

LOCAL MENTAL HEALTH SYSTEMS OF CARE	86391
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.	86392 86393 86394 86395 86396
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.	86397 86398 86399 86400
Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.	86401 86402
BEHAVIORAL HEALTH MEDICAID SERVICES	86403
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.	86404 86405 86406 86407 86408 86409 86410
<b>Section 70.</b> DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	86411 86412
<b>Section 70.01.</b> GENERAL ADMINISTRATION AND STATEWIDE SERVICES	86413
General Revenue Fund	86414
GRF 320-321 Central Administration \$ 9,174,390 \$ 9,357,878	86415
GRF 320-412 Protective Services \$ 1,911,471 \$ 2,008,330	86416
GRF 320-415 Lease-Rental Payments \$ 25,935,650 \$ 23,206,750	86417
TOTAL GRF General Revenue Fund \$ 37,021,511 \$ 34,572,958	86418
General Services Fund Group	86419

4B5 320-640 Conference/Training	\$	400,000	\$	400,000	86420
TOTAL GSF General Services					86421
Fund Group	\$	400,000	\$	400,000	86422
Federal Special Revenue Fund Group					86423
3A4 320-605 Administrative Support	\$	12,492,892	\$	12,492,892	86424
3A5 320-613 DD Council Operating	\$	861,000	\$	861,000	86425
Expenses					86426
325 320-634 Protective Services	\$	100,000	\$	100,000	86427
TOTAL FED Federal Special Revenue					86428
Fund Group	\$	13,453,892	\$	13,453,892	86429
State Special Revenue Fund Group					86430
5S2 590-622 Medicaid	\$	2,969,552	\$	2,969,552	86431
Administration & Oversight					
TOTAL SSR State Special Revenue					86432
Fund Group	\$	2,969,552	\$	2,969,552	86433
TOTAL ALL GENERAL ADMINISTRATION AND STATEWIDE SERVICES					86434 86435
BUDGET FUND GROUPS	\$	53,844,955	\$	51,396,402	86436
LEASE-RENTAL PAYMENTS					86437
The foregoing appropriation item 320-415, Lease-Rental					86438
Payments, shall be used to meet all payments at the times they are					86439
required to be made during the period from July 1, 2003, to June					86440
30, 2005, by the Department of Mental Retardation and					86441
Developmental Disabilities pursuant to leases and agreements made					86442
under section 154.20 of the Revised Code, but limited to the					86443
aggregate amount of \$49,142,400. Nothing in this act shall be					86444
deemed to contravene the obligation of the state to pay, without					86445
necessity for further appropriation, from the sources pledged					86446
thereto, the bond service charges on obligations issued pursuant					86447
to section 154.20 of the Revised Code.					86448

<b>Section 70.02. COMMUNITY SERVICES</b>				86449
General Revenue Fund				86450
GRF 322-405	State Use Program	\$ 268,792	\$ 273,510	86451
GRF 322-413	Residential and	\$ 8,439,337	\$ 8,450,787	86452
Support Services				
GRF 322-416	Waiver State Match	\$ 95,695,198	\$ 100,019,747	86453
GRF 322-417	Supported Living	\$ 43,179,715	\$ 43,179,715	86454
GRF 322-451	Family Support	\$ 6,975,870	\$ 6,975,870	86455
Services				
GRF 322-452	Service and Support	\$ 8,849,724	\$ 8,849,724	86456
Administration				
GRF 322-501	County Boards	\$ 31,795,691	\$ 31,795,691	86457
Subsidies				
GRF 322-503	Tax Equity	\$ 14,000,000	\$ 15,000,000	86458
TOTAL GRF	General Revenue Fund	\$ 209,204,327	\$ 214,545,044	86459
General Services Fund Group				86460
4J6 322-645	Intersystem Services	\$ 3,300,000	\$ 3,300,000	86461
for Children				
4U4 322-606	Community MR and DD	\$ 300,000	\$ 300,000	86462
Trust				
4V1 322-611	Program Support	\$ 610,000	\$ 625,000	86463
488 322-603	Residential Services	\$ 1,000,000	\$ 1,000,000	86464
Refund				
TOTAL GSF	General Services			86465
Fund Group		\$ 5,210,000	\$ 5,225,000	86466
Federal Special Revenue Fund Group				86467
3A4 322-605	Community Program	\$ 1,000,000	\$ 1,000,000	86468
Support				
3A4 322-610	Community Residential	\$ 500,000	\$ 500,000	86469
Support				
3A5 322-613	DD Council Grants	\$ 3,130,000	\$ 3,130,000	86470

3G6 322-639 Medicaid Waiver	\$	344,068,714	\$	373,772,814	86471
3M7 322-650 CAFS Medicaid	\$	254,739,737	\$	267,668,087	86472
325 322-608 Federal Grants -	\$	2,023,587	\$	1,833,815	86473
Operating Expenses					86474
325 322-612 Social Service Block	\$	10,319,346	\$	10,330,830	86475
Grant					86476
325 322-617 Education Grants -	\$	75,500	\$	75,500	86477
Operating					86478
TOTAL FED Federal Special Revenue					86479
Fund Group	\$	615,856,884	\$	658,311,046	86480
State Special Revenue Fund Group					86481
4K8 322-604 Waiver - Match	\$	12,000,000	\$	12,000,000	86482
5H0 322-619 Medicaid Repayment	\$	25,000	\$	25,000	86483
TOTAL SSR State Special Revenue					86484
Fund Group	\$	12,025,000	\$	12,025,000	86485
TOTAL ALL COMMUNITY SERVICES					86486
BUDGET FUND GROUPS	\$	842,296,211	\$	890,106,090	86487
RESIDENTIAL AND SUPPORT SERVICES					86488
The Department of Mental Retardation and Developmental					86489
Disabilities may designate a portion of appropriation item					86490
322-413, Residential and Support Services, for the following:					86491
(A) Sermak Class Services used to implement the requirements					86492
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,					86493
Case No. c-2-80-220, United States District Court for the Southern					86494
District of Ohio, Eastern Division;					86495
(B) Medicaid-reimbursed programs other than home and					86496
community-based waiver services, in an amount not to exceed					86497
\$1,000,000 in each fiscal year, that enable persons with mental					86498
retardation and developmental disabilities to live in the					86499
community.					86500
WAIVER STATE MATCH					86501

The purposes for which the foregoing appropriation item 86502  
322-416, Waiver State Match, shall be used include the following: 86503

(A) Home and community-based waiver services pursuant to 86504  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 86505  
U.S.C. 301, as amended. 86506

(B) Services contracted by county boards of mental 86507  
retardation and developmental disabilities. 86508

(C) To pay the nonfederal share of the cost of one or more 86509  
new intermediate care facility for the mentally retarded certified 86510  
beds in a county where the county board of mental retardation and 86511  
developmental disabilities does not initiate or support the 86512  
development or certification of such beds, if the director of 86513  
mental retardation and developmental disabilities is required by 86514  
this act to transfer to the director of job and family services 86515  
funds to pay such nonfederal share. 86516

The Department of Mental Retardation and Developmental 86517  
Disabilities may designate a portion of appropriation item 86518  
322-416, Waiver State Match, to county boards of mental 86519  
retardation and developmental disabilities that have greater need 86520  
for various residential and support services due to a low 86521  
percentage of residential and support services development in 86522  
comparison to the number of individuals with mental retardation or 86523  
developmental disabilities in the county. 86524

Of the foregoing appropriation item 322-416, Waiver State 86525  
Match, \$9,850,000 in each year of the biennium shall be 86526  
distributed by the Department to county boards of mental 86527  
retardation and developmental disabilities to support existing 86528  
residential facilities waiver and individual options waiver 86529  
related to Medicaid activities provided for in the component of a 86530  
county board's plan developed under division (A)(2) of section 86531  
5126.054 of the Revised Code and approved under section 5123.046 86532

of the Revised Code. Up to \$3,000,000 of these funds in each 86533  
fiscal year may be used to implement day-to-day program management 86534  
services under division (A)(2) of section 5126.054 of the Revised 86535  
Code. Up to \$4,200,000 in each fiscal year may be used to 86536  
implement the program and health and welfare requirements of 86537  
division (A)(2) of section 5126.054 of the Revised Code. 86538

In fiscal years 2004 and 2005 not less than \$2,650,000 of 86539  
these funds shall be used to recruit and retain, under division 86540  
(A)(2) of section 5126.054 of the Revised Code, the direct care 86541  
staff necessary to implement the services included in an 86542  
individualized service plan in a manner that ensures the health 86543  
and welfare of the individuals being served. 86544

The methodology utilized by the department to determine each 86545  
residential facilities waiver and individual options provider's 86546  
allocation of such funds in fiscal year 2003 shall be used for 86547  
allocation purposes to such providers in fiscal years 2004 and 86548  
2005, respectively. 86549

SUPPORTED LIVING 86550

The purposes for which the foregoing appropriation item 86551  
322-417, Supported Living, shall be used include supported living 86552  
services contracted by county boards of mental retardation and 86553  
developmental disabilities in accordance with sections 5126.40 to 86554  
5126.47 of the Revised Code and to pay the nonfederal share of the 86555  
cost of one or more new intermediate care facility for the 86556  
mentally retarded certified beds in a county where the county 86557  
board of mental retardation and developmental disabilities does 86558  
not initiate or support the development or certification of such 86559  
beds, if the director of mental retardation and developmental 86560  
disabilities is required by this act to transfer to the director 86561  
of job and family services funds to pay such nonfederal share. 86562

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 86563

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 86564  
the Department of Mental Retardation and Developmental 86565  
Disabilities may develop residential and support service programs 86566  
funded by appropriation item 322-413, Residential and Support 86567  
Services, appropriation item 322-416, Waiver State Match, or 86568  
appropriation item 322-417, Supported Living, that enable persons 86569  
with mental retardation and developmental disabilities to live in 86570  
the community. Notwithstanding Chapter 5121. and section 5123.122 86571  
of the Revised Code, the department may waive the support 86572  
collection requirements of those statutes for persons in community 86573  
programs developed by the department under this section. The 86574  
department shall adopt rules under Chapter 119. of the Revised 86575  
Code or may use existing rules for the implementation of these 86576  
programs. 86577

FAMILY SUPPORT SERVICES 86578

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 86579  
5126.11 of the Revised Code, the Department of Mental Retardation 86580  
and Developmental Disabilities may implement programs funded by 86581  
appropriation item 322-451, Family Support Services, to provide 86582  
assistance to persons with mental retardation or developmental 86583  
disabilities and their families who are living in the community. 86584  
The department shall adopt rules to implement these programs. The 86585  
department may also use the foregoing appropriation item 322-451, 86586  
Family Support Services, to pay the nonfederal share of the cost 86587  
of one or more new intermediate care facility for the mentally 86588  
retarded certified beds in a county where the county board of 86589  
mental retardation and developmental disabilities initiates or 86590  
supports the development or certification of such beds, if the 86591  
director of mental retardation and developmental disabilities is 86592  
required by this act to transfer to the director of job and family 86593  
services funds to pay such nonfederal share. 86594

SERVICE AND SUPPORT ADMINISTRATION 86595

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 86628  
322-452, Service and Support Administration, to pay the nonfederal 86629  
share of the cost of one or more new intermediate care facility 86630  
for the mentally retarded certified beds in a county where the 86631  
county board of mental retardation and developmental disabilities 86632  
initiates or supports the development or certification of such 86633  
beds, if the director of mental retardation and developmental 86634  
disabilities is required by this act to transfer to the director 86635  
of job and family services funds to pay such nonfederal share. 86636

STATE SUBSIDIES TO MR/DD BOARDS 86637

The foregoing appropriation item 322-501, County Boards 86638  
Subsidies, shall be distributed to county boards of mental 86639  
retardation and developmental disabilities pursuant to section 86640  
5126.12 of the Revised Code to the limit of the lesser of the 86641  
amount required by that section or the appropriation in 86642  
appropriation item 322-501 prorated to all county boards of mental 86643  
retardation and developmental disabilities. 86644

The department may also use the foregoing appropriation item 86645  
322-501, County Boards Subsidies, to pay the nonfederal share of 86646  
the cost of one or more new intermediate care facility for the 86647  
mentally retarded certified beds in a county where the county 86648  
board of mental retardation and developmental disabilities 86649  
initiates or supports the development or certification of such 86650  
beds, if the director of mental retardation and developmental 86651  
disabilities is required by this act to transfer to the director 86652  
of job and family services funds to pay such nonfederal share. 86653

TAX EQUITY 86654

The foregoing appropriation item 322-503, Tax Equity, shall 86655  
be used to fund the tax equalization program created under section 86656  
5126.18 of the Revised Code for county boards of mental 86657  
retardation and developmental disabilities. 86658

INTERSYSTEM SERVICES FOR CHILDREN 86659

The foregoing appropriation item 322-645, Intersystem 86660  
Services for Children, shall be used to support direct grants to 86661  
county family and children first councils created under section 86662  
121.37 of the Revised Code. The funds shall be used as partial 86663  
support payment and reimbursement for locally coordinated 86664  
treatment plans for multi-needs children that come to the 86665  
attention of the Family and Children First Cabinet Council 86666  
pursuant to section 121.37 of the Revised Code. The Department of 86667  
Mental Retardation and Developmental Disabilities may use up to 86668  
five per cent of this amount for administrative expenses 86669  
associated with the distribution of funds to the county councils. 86670

WAIVER - MATCH 86671

The foregoing appropriation item 322-604, Waiver-Match (Fund 86672  
4K8), shall be used as state matching funds for the home and 86673  
community-based waivers. 86674

**Section 70.03.** DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A 86675  
MODEL BILLING FOR SERVICES RENDERED 86676

Developmental centers of the Department of Mental Retardation 86677  
and Developmental Disabilities may provide services to persons 86678  
with mental retardation or developmental disabilities living in 86679  
the community or to providers of services to these persons. The 86680  
department may develop a methodology for recovery of all costs 86681  
associated with the provisions of these services. 86682

**Section 70.04.** TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 86683  
PHARMACY PROGRAMS 86684

Beginning July 1, 2003, the Department of Mental Retardation 86685  
and Developmental Disabilities shall pay the Department of Job and 86686  
Family Services quarterly, through intrastate transfer voucher, 86687

the nonfederal share of Medicaid prescription drug claim costs for 86688  
all developmental centers paid by the Department of Job and Family 86689  
Services. 86690

**Section 70.05. RESIDENTIAL FACILITIES**

				86691
General Revenue Fund				86692
GRF 323-321 Residential Facilities	\$ 103,402,750	\$ 104,634,635		86693
Operations				86694
TOTAL GRF General Revenue Fund	\$ 103,402,750	\$ 104,634,635		86695
General Services Fund Group				86696
152 323-609 Residential Facilities	\$ 912,177	\$ 912,177		86697
Support				86698
TOTAL GSF General Services				86699
Fund Group	\$ 912,177	\$ 912,177		86700
Federal Special Revenue Fund Group				86701
3A4 323-605 Residential Facilities	\$ 128,736,729	\$ 128,831,708		86702
Reimbursement				86703
325 323-608 Federal Grants -	\$ 571,381	\$ 582,809		86704
Subsidies				86705
325 323-617 Education Grants -	\$ 425,000	\$ 425,000		86706
Residential Facilities				86707
TOTAL FED Federal Special Revenue				86708
Fund Group	\$ 129,733,110	\$ 129,839,517		86709
State Special Revenue Fund Group				86710
489 323-632 Operating Expense	\$ 12,125,628	\$ 12,125,628		86711
TOTAL SSR State Special Revenue				86712
Fund Group	\$ 12,125,628	\$ 12,125,628		86713
TOTAL ALL RESIDENTIAL FACILITIES				86714
BUDGET FUND GROUPS	\$ 246,173,665	\$ 247,511,957		86715
DEPARTMENT TOTAL				86716
GENERAL REVENUE FUND	\$ 349,628,588	\$ 353,752,637		86717
DEPARTMENT TOTAL				86718

GENERAL SERVICES FUND GROUP	\$	6,522,177	\$	6,537,177	86719
DEPARTMENT TOTAL					86720
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$	801,604,455	86721
DEPARTMENT TOTAL					86722
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$	27,120,180	86723
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES					86724
	\$	1,142,314,831	\$	1,189,014,449	86725
					86726

(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; 86749

(9) One representative of the Ohio Health Care Association 86750  
appointed by the association's board of trustees; 86751

(10) One representative of individuals with mental 86752  
retardation or other developmental disability appointed by the 86753  
Director of Mental Retardation and Developmental Disabilities. 86754

(B) The Governor shall appoint the chairperson of the 86755  
committee. Members of the committee shall serve without 86756  
compensation or reimbursement, except to the extent that serving 86757  
on the committee is considered a part of their regular employment 86758  
duties. 86759

(C) The committee shall meet at times determined by the 86760  
chairperson to do all of the following: 86761

(1) Review the effect that the provisions of this act 86762  
regarding Medicaid funding for services to individuals with mental 86763  
retardation or other developmental disability have on the funding 86764  
and provision of services to such individuals; 86765

(2) Identify issues related to, and barriers to, the 86766  
effective implementation of those provisions of this act with the 86767  
goal of meeting the needs of individuals with mental retardation 86768  
or other developmental disability; 86769

(3) Establish effective means for resolving the issues and 86770  
barriers, including advocating changes to state law, rules, or 86771  
both. 86772

(D) The committee shall submit a final report to the Governor 86773  
and Directors of Mental Retardation and Developmental Disabilities 86774  
and Job and Family Services and shall cease to exist on submission 86775  
of the final report unless the Governor issues an executive order 86776  
providing for the committee to continue. 86777

**Section 71. MIH COMMISSION ON MINORITY HEALTH** 86778

General Revenue Fund				86779
GRF 149-321 Operating Expenses	\$	539,318	\$ 539,318	86780
GRF 149-501 Minority Health Grants	\$	751,478	\$ 751,478	86781
GRF 149-502 Lupus Program	\$	141,556	\$ 141,556	86782
TOTAL GRF General Revenue Fund	\$	1,432,352	\$ 1,432,352	86783
Federal Special Revenue Fund Group				86784
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	86785
TOTAL FED Federal Special Revenue				86786
Fund Group	\$	150,000	\$ 150,000	86787
State Special Revenue Fund Group				86788
4C2 149-601 Minority Health	\$	150,000	\$ 150,000	86789
Conference				
TOTAL SSR State Special Revenue				86790
Fund Group	\$	150,000	\$ 150,000	86791
TOTAL ALL BUDGET FUND GROUPS	\$	1,732,352	\$ 1,732,352	86792
LUPUS PROGRAM				86793
The foregoing appropriation item 149-502, Lupus Program,				86794
shall be used to provide grants for programs in patient, public,				86795
and professional education on the subject of systemic lupus				86796
erythematosus; to encourage and develop local centers on lupus				86797
information gathering and screening; and to provide outreach to				86798
minority women.				86799
<b>Section 72. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION</b>				86800
BOARD				86801
General Service Fund Group				86802
5H9 865-609 Operating Expenses	\$	285,497	\$ 314,422	86803
TOTAL GSF General Services				86804
Fund Group	\$	285,497	\$ 314,422	86805
TOTAL ALL BUDGET FUND GROUPS	\$	285,497	\$ 314,422	86806

<b>Section 73. DNR DEPARTMENT OF NATURAL RESOURCES</b>			86808
General Revenue Fund			86809
GRF 725-404	Fountain Square Rental	\$ 1,093,300 \$	1,094,800 86810
	Payments - OBA		
GRF 725-407	Conservation Reserve	\$ 1,218,750 \$	1,218,750 86811
	Enhancement Program		
GRF 725-412	Reclamation Commission	\$ 57,934 \$	57,934 86812
GRF 725-413	OPFC Lease Rental	\$ 15,066,500 \$	17,709,500 86813
	Payments		
GRF 725-423	Stream and Ground	\$ 331,819 \$	331,819 86814
	Water Gauging		
GRF 725-425	Wildlife License	\$ 816,319 \$	976,319 86815
	Reimbursement		
GRF 725-456	Canal Lands	\$ 332,859 \$	332,859 86816
GRF 725-502	Soil and Water	\$ 11,182,024 \$	11,475,507 86817
	Districts		
GRF 725-903	Natural Resources	\$ 23,808,300 \$	26,914,300 86818
	General Obligation		
	Debt Service		
GRF 727-321	Division of Forestry	\$ 9,068,735 \$	9,068,735 86819
GRF 728-321	Division of Geological	\$ 1,731,456 \$	1,731,456 86820
	Survey		
GRF 729-321	Office of Information	\$ 440,895 \$	440,895 86821
	Technology		
GRF 730-321	Division of Parks and	\$ 34,232,205 \$	37,061,493 86822
	Recreation		
GRF 731-321	Office of Coastal	\$ 248,679 \$	259,707 86823
	Management		
GRF 733-321	Division of Water	\$ 3,355,830 \$	3,237,619 86824
GRF 736-321	Division of	\$ 3,410,852 \$	3,436,918 86825
	Engineering		
GRF 737-321	Division of Soil and	\$ 4,215,288 \$	4,234,788 86826

		Water					
GRF	738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781	86827
GRF	741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405	86828
GRF	744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967	86829
TOTAL GRF		General Revenue Fund	\$	119,477,925	\$	128,515,552	86830
		General Services Fund Group					86831
155	725-601	Departmental Projects	\$	2,645,479	\$	2,831,337	86832
157	725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094	86833
161	725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240	86834
204	725-687	Information Services	\$	3,384,275	\$	3,476,627	86835
206	725-689	REALM Support Services	\$	475,000	\$	475,000	86836
207	725-690	Real Estate Services	\$	54,000	\$	54,000	86837
223	725-665	Law Enforcement Administration	\$	969,825	\$	976,225	86838
4D5	725-618	Recycled Materials	\$	50,000	\$	50,000	86839
4S9	725-622	NatureWorks Personnel	\$	908,516	\$	983,103	86840
4X8	725-662	Water Resources Council	\$	282,524	\$	282,524	86841
430	725-671	Canal Lands	\$	1,119,834	\$	1,059,056	86842
508	725-684	Natural Resources Publications	\$	209,364	\$	215,626	86843
510	725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849	86844
516	725-620	Water Management	\$	3,663,849	\$	2,342,814	86845
635	725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199	86846
697	725-670	Submerged Lands	\$	507,099	\$	542,011	86847

TOTAL GSF General Services				86848
Fund Group	\$	27,965,095	\$ 27,652,705	86849
Federal Special Revenue Fund Group				86850
3B3 725-640 Federal Forest	\$	140,000	\$ 150,000	86851
Pass-Thru				
3B4 725-641 Federal Flood	\$	280,000	\$ 285,000	86852
Pass-Thru				
3B5 725-645 Federal Abandoned Mine	\$	11,922,845	\$ 11,843,866	86853
Lands				
3B6 725-653 Federal Land and Water	\$	4,900,000	\$ 5,000,000	86854
Conservation Grants				
3B7 725-654 Reclamation -	\$	2,179,870	\$ 2,168,413	86855
Regulatory				
3P0 725-630 Natural Areas and	\$	718,876	\$ 552,480	86856
Preserves - Federal				
3P1 725-632 Geological Survey -	\$	470,780	\$ 479,653	86857
Federal				
3P2 725-642 Oil and Gas-Federal	\$	224,537	\$ 232,964	86858
3P3 725-650 Coastal Management -	\$	2,357,000	\$ 2,357,000	86859
Federal				
3P4 725-660 Water - Federal	\$	300,000	\$ 242,000	86860
3R5 725-673 Acid Mine Drainage	\$	792,028	\$ 837,223	86861
Abatement/Treatment				
3Z5 725-657 REALM-Federal	\$	1,578,871	\$ 1,578,871	86862
328 725-603 Forestry Federal	\$	1,530,561	\$ 1,484,531	86863
332 725-669 Federal Mine Safety	\$	247,364	\$ 258,103	86864
Grant				
TOTAL FED Federal Special Revenue				86865
Fund Group	\$	27,642,732	\$ 27,470,104	86866
State Special Revenue Fund Group				86867
4J2 725-628 Injection Well Review	\$	98,468	\$ 81,188	86868
4M7 725-631 Wildfire Suppression	\$	100,000	\$ 100,000	86869

4U6	725-668	Scenic Rivers Protection	\$	561,000	\$	617,100	86870
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000	86871
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000	86872
5P2	725-634	Wildlife Boater Angler Administration	\$	1,500,000	\$	1,500,000	86873
509	725-602	State Forest	\$	982,970	\$	1,127,117	86874
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940	86875
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146	86876
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254	86877
518	725-643	Oil and Gas Permit Fees	\$	2,205,651	\$	2,399,580	86878
518	725-677	Oil and Gas Well Plugging	\$	1,000,000	\$	1,000,000	86879
521	725-627	Off-Road Vehicle Trails	\$	118,490	\$	123,490	86880
522	725-656	Natural Areas Checkoff Funds	\$	2,046,737	\$	1,550,670	86881
526	725-610	Strip Mining Administration Fees	\$	1,449,459	\$	1,449,459	86882
527	725-637	Surface Mining Administration	\$	2,793,938	\$	2,693,938	86883
529	725-639	Unreclaimed Land Fund	\$	1,841,589	\$	1,971,037	86884
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087	86885
532	725-644	Litter Control and Recycling	\$	12,544,686	\$	12,544,686	86886
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	86887
615	725-661	Dam Safety	\$	286,045	\$	408,223	86888
TOTAL SSR State Special Revenue							86889
Fund Group			\$	63,283,308	\$	63,212,915	86890
Clean Ohio Fund Group							86891
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	86892
TOTAL CLR Clean Ohio Fund Group			\$	155,000	\$	155,000	86893

Wildlife Fund Group				86894	
015 740-401 Division of Wildlife	\$	46,427,945	\$	46,814,691	86895
Conservation					
815 725-636 Cooperative Management	\$	120,449	\$	120,449	86896
Projects					
816 725-649 Wetlands Habitat	\$	966,885	\$	966,885	86897
817 725-655 Wildlife Conservation	\$	5,000,000	\$	5,000,000	86898
Checkoff Fund					
818 725-629 Cooperative Fisheries	\$	988,582	\$	988,582	86899
Research					
819 725-685 Ohio River Management	\$	128,584	\$	128,584	86900
TOTAL WLF Wildlife Fund Group	\$	53,632,445	\$	54,019,191	86901
Waterways Safety Fund Group				86902	
086 725-414 Waterways Improvement	\$	3,813,051	\$	4,140,186	86903
086 725-418 Buoy Placement	\$	42,182	\$	42,182	86904
086 725-501 Waterway Safety Grants	\$	137,867	\$	137,867	86905
086 725-506 Watercraft Marine	\$	576,153	\$	576,153	86906
Patrol					
086 725-513 Watercraft Educational	\$	366,643	\$	366,643	86907
Grants					
086 739-401 Division of Watercraft	\$	19,420,712	\$	18,718,847	86908
TOTAL WSF Waterways Safety Fund				86909	
Group	\$	24,356,608	\$	23,981,878	86910
Holding Account Redistribution Fund Group				86911	
R17 725-659 Performance Cash Bond	\$	226,500	\$	226,500	86912
Refunds					
R43 725-624 Forestry	\$	800,000	\$	800,000	86913
TOTAL 090 Holding Account				86914	
Redistribution Fund Group	\$	1,026,500	\$	1,026,500	86915
Accrued Leave Liability Fund Group				86916	
4M8 725-675 FOP Contract	\$	20,844	\$	20,844	86917
TOTAL ALF Accrued Leave				86918	

Liability Fund Group	\$	20,844	\$	20,844	86919
TOTAL ALL BUDGET FUND GROUPS	\$	317,560,457	\$	326,054,689	86920

**Section 73.01. FOUNTAIN SQUARE** 86922

The foregoing appropriation item 725-404, Fountain Square 86923  
Rental Payments - OBA, shall be used by the Department of Natural 86924  
Resources to meet all payments required to be made to the Ohio 86925  
Building Authority during the period from July 1, 2003, to June 86926  
30, 2005, pursuant to leases and agreements with the Ohio Building 86927  
Authority under section 152.241 of the Revised Code, but limited 86928  
to the aggregate amount of \$2,188,100. 86929

The Director of Natural Resources, using intrastate transfer 86930  
vouchers, shall make payments to the General Revenue Fund from 86931  
funds other than the General Revenue Fund to reimburse the General 86932  
Revenue Fund for the other funds' shares of the lease rental 86933  
payments to the Ohio Building Authority. The transfers from the 86934  
non-General Revenue funds shall be made within 10 days of the 86935  
payment to the Ohio Building Authority for the actual amounts 86936  
necessary to fulfill the leases and agreements pursuant to section 86937  
152.241 of the Revised Code. 86938

The foregoing appropriation item 725-664, Fountain Square 86939  
Facilities Management (Fund 635), shall be used for payment of 86940  
repairs, renovation, utilities, property management, and building 86941  
maintenance expenses for the Fountain Square Complex. Cash 86942  
transferred by intrastate transfer vouchers from various 86943  
department funds and rental income received by the Department of 86944  
Natural Resources shall be deposited into the Fountain Square 86945  
Facilities Management Fund (Fund 635). 86946

LEASE RENTAL PAYMENTS 86947

The foregoing appropriation item 725-413, OPFC Lease Rental 86948  
Payments, shall be used to meet all payments at the times they are 86949

required to be made during the period from July 1, 2003, to June 86950  
30, 2005, by the Department of Natural Resources pursuant to 86951  
leases and agreements made under section 154.22 of the Revised 86952  
Code, but limited to the aggregate amount of \$32,776,000. Nothing 86953  
in this act shall be deemed to contravene the obligation of the 86954  
state to pay, without necessity for further appropriation, from 86955  
the sources pledged thereto, the bond service charges on 86956  
obligations issued pursuant to section 154.22 of the Revised Code. 86957

**NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE** 86958

The foregoing appropriation item 725-903, Natural Resources 86959  
General Obligation Debt Service, shall be used to pay all debt 86960  
service and related financing costs at the times they are required 86961  
to be made pursuant to sections 151.01 and 151.05 of the Revised 86962  
Code during the period from July 1, 2003, to June 30, 2005. The 86963  
Office of the Sinking Fund or the Director of Budget and 86964  
Management shall effectuate the required payments by an intrastate 86965  
transfer voucher. 86966

**Section 73.02. WILDLIFE LICENSE REIMBURSEMENT** 86967

Notwithstanding the limits of the transfer from the General 86968  
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 86969  
of the Revised Code, up to the amount available in appropriation 86970  
item 725-425, Wildlife License Reimbursement, may be transferred 86971  
from the General Revenue Fund to the Wildlife Fund (Fund 015). 86972  
Pursuant to the certification of the Director of Budget and 86973  
Management of the amount of foregone revenue in accordance with 86974  
section 1533.15 of the Revised Code, the foregoing appropriation 86975  
item in the General Revenue Fund, appropriation item 725-425, 86976  
Wildlife License Reimbursement, shall be used to reimburse the 86977  
Wildlife Fund (Fund 015) for the cost of hunting and fishing 86978  
licenses and permits issued after June 30, 1990, to individuals 86979  
who are exempted under the Revised Code from license, permit, and 86980

stamp fees.	86981
CANAL LANDS	86982
The foregoing appropriation item 725-456, Canal Lands, shall	86983
be used to transfer funds to the Canal Lands Fund (Fund 430) to	86984
provide operating expenses for the State Canal Lands Program. The	86985
transfer shall be made using an intrastate transfer voucher and	86986
shall be subject to the approval of the Director of Budget and	86987
Management.	86988
SOIL AND WATER DISTRICTS	86989
In addition to state payments to soil and water conservation	86990
districts authorized by section 1515.10 of the Revised Code, the	86991
Department of Natural Resources may pay to any soil and water	86992
conservation district, from authority in appropriation item	86993
725-502, Soil and Water Districts, an annual amount not to exceed	86994
\$30,000, upon receipt of a request and justification from the	86995
district and approval by the Ohio Soil and Water Conservation	86996
Commission. The county auditor shall credit the payments to the	86997
special fund established under section 1515.10 of the Revised Code	86998
for the local soil and water conservation district. Moneys	86999
received by each district shall be expended for the purposes of	87000
the district.	87001
Of the foregoing appropriation item 725-502, Soil and Water	87002
Districts, \$120,000 shall be earmarked in fiscal year 2004 for the	87003
Franklin County Soil and Water District.	87004
Of the foregoing appropriation item 725-502, Soil and Water	87005
Districts, \$175,000 shall be earmarked in fiscal year 2004 for the	87006
Indian Lake Watershed.	87007
Of the foregoing appropriation item 725-502, Soil and Water	87008
Districts, \$50,000 shall be earmarked for the Rush Creek Watershed	87009
in each fiscal year.	87010

Of the foregoing appropriation item 725-502, Soil and Water 87011  
Districts, \$28,000 shall be earmarked for the Conservation Action 87012  
Program in each fiscal year. 87013

Of the foregoing appropriation item 725-502, Soil and Water 87014  
Districts, \$150,000 each fiscal year shall be earmarked for the 87015  
Muskingum Conservancy District. 87016

Of the foregoing appropriation item 725-502, Soil and Water 87017  
Districts, \$120,000 each fiscal year shall be earmarked for the 87018  
relocation of Route 30. 87019

FUND CONSOLIDATION 87020

On July 15, 2003, or as soon thereafter as possible, the 87021  
Director of Budget and Management shall transfer the cash balance 87022  
as certified by the Director of Natural Resources from the Coastal 87023  
Management-Federal Fund (Fund 3P3) to the REALM-Federal Fund (Fund 87024  
3Z5). The Director shall cancel any remaining outstanding 87025  
encumbrances against appropriation item 725-650, Coastal 87026  
Management-Federal, that are associated with the REALM federal 87027  
programs and reestablish them against appropriation item 725-657, 87028  
REALM-Federal. The amounts of any encumbrances canceled and 87029  
reestablished are hereby appropriated. 87030

LAW ENFORCEMENT ADMINISTRATION 87031

On or after July 1, 2003, but not later than July 15, 2003, 87032  
the Director of Budget and Management shall transfer \$969,825 from 87033  
the Central Support Indirect Fund (Fund 157) to the Law 87034  
Enforcement Administration Fund (Fund 223). On or after July 1, 87035  
2004, but not later than July 15, 2004, the Director of Budget and 87036  
Management shall transfer \$976,225 from the Central Support 87037  
Indirect Fund (Fund 157) to the Law Enforcement Administration 87038  
Fund (Fund 223). 87039

OIL AND GAS WELL PLUGGING 87040

The foregoing appropriation item 725-677, Oil and Gas Well 87041  
Plugging, shall be used exclusively for the purposes of plugging 87042  
wells and to properly restore the land surface of idle and orphan 87043  
oil and gas wells pursuant to section 1509.071 of the Revised 87044  
Code. No funds from the appropriation item shall be used for 87045  
salaries, maintenance, equipment, or other administrative 87046  
purposes, except for those costs directly attributed to the 87047  
plugging of an idle or orphan well. Appropriation authority from 87048  
this appropriation item shall not be transferred to any other fund 87049  
or line item. 87050

CLEAN OHIO OPERATING EXPENSES 87051

The foregoing appropriation item 725-405, Clean Ohio 87052  
Operating, shall be used by the Department of Natural Resources in 87053  
administering section 1519.05 of the Revised Code. 87054

DIVISION OF SOIL AND WATER 87055

Of the foregoing appropriation item 737-321, Division of Soil 87056  
and Water, \$220,000 in each fiscal year shall be earmarked for the 87057  
Water Quality Laboratory located at Heidelberg College. 87058

WATERCRAFT MARINE PATROL 87059

Of the foregoing appropriation item 739-401, Division of 87060  
Watercraft, not more than \$200,000 in each fiscal year shall be 87061  
expended for the purchase of equipment for marine patrols 87062  
qualifying for funding from the Department of Natural Resources 87063  
pursuant to section 1547.67 of the Revised Code. Proposals for 87064  
equipment shall accompany the submission of documentation for 87065  
receipt of a marine patrol subsidy pursuant to section 1547.67 of 87066  
the Revised Code and shall be loaned to eligible marine patrols 87067  
pursuant to a cooperative agreement between the Department of 87068  
Natural Resources and the eligible marine patrol. 87069

ELIMINATION OF CIVILIAN CONSERVATION CORPS 87070

Upon the closure of the Division of Civilian Conservation, 87071  
the Director of Natural Resources, not later than June 30, 2004, 87072  
shall distribute, allocate, salvage, or transfer all assets, 87073  
equipment, supplies, and cash balances of the Division of Civilian 87074  
Conservation to other operating divisions of the Department of 87075  
Natural Resources as determined by the director. The director 87076  
shall maintain a record of such disposition of all assets. 87077

The director shall maintain balances within the Civilian 87078  
Conservation Corps Fund to pay all outstanding obligations, 87079  
including unemployment and other costs associated with the orderly 87080  
closure of the Division of Civilian Conservation. All amounts 87081  
necessary for the orderly closure are hereby appropriated. 87082

PROHIBITION AGAINST ENTRANCE FEES FOR STATE PARKS AND NATURE 87083  
PRESERVES 87084

During the biennium that includes fiscal years 2004 and 2005, 87085  
the Department of Natural Resources shall not charge a fee for the 87086  
privilege of entering a state park or a nature preserve, as 87087  
"nature preserve" is defined in section 1517.01 of the Revised 87088  
Code. 87089

**Section 74.** NUR STATE BOARD OF NURSING 87090

General Services Fund Group				87091	
4K9 884-609 Operating Expenses	\$	5,232,776	\$	5,257,576	87092
5P8 884-601 Nursing Special Issues	\$	5,000	\$	5,000	87093
TOTAL GSF General Services					87094
Fund Group	\$	5,237,776	\$	5,262,576	87095
TOTAL ALL BUDGET FUND GROUPS	\$	5,237,776	\$	5,262,576	87096

NURSING SPECIAL ISSUES 87097

The foregoing appropriation item 884-601, Nursing Special 87098  
Issues (Fund 5P8), shall be used to pay the costs the Board of 87099  
Nursing incurs in implementing section 4723.062 of the Revised 87100

Code.				87101
<b>Section 75. OLA OHIOANA LIBRARY ASSOCIATION</b>				87102
General Revenue Fund				87103
GRF 355-501 Library Subsidy	\$	215,036	\$ 215,036	87104
TOTAL GRF General Revenue Fund	\$	215,036	\$ 215,036	87105
TOTAL ALL BUDGET FUND GROUPS	\$	215,036	\$ 215,036	87106
<b>Section 76. ODB OHIO OPTICAL DISPENSERS BOARD</b>				87108
General Services Fund Group				87109
4K9 894-609 Operating Expenses	\$	307,096	\$ 312,656	87110
TOTAL GSF General Services				87111
Fund Group	\$	307,096	\$ 312,656	87112
TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$ 312,656	87113
<b>Section 77. OPT STATE BOARD OF OPTOMETRY</b>				87115
General Services Fund Group				87116
4K9 885-609 Operating Expenses	\$	306,140	\$ 324,391	87117
TOTAL GSF General Services				87118
Fund Group	\$	306,140	\$ 324,391	87119
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$ 324,391	87120
<b>Section 78. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS</b>				87122
General Services Fund Group				87123
4K9 973-609 Operating Expenses	\$	100,206	\$ 102,395	87124
TOTAL GSF General Services				87125
Fund Group	\$	100,206	\$ 102,395	87126
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$ 102,395	87127
<b>Section 80. PBR STATE PERSONNEL BOARD OF REVIEW</b>				87128
General Revenue Fund				87129
				87130

GRF 124-321 Operating	\$	1,029,430	\$	1,077,170	87131
TOTAL GRF General Revenue Fund	\$	1,029,430	\$	1,077,170	87132
General Services Fund Group					87133
636 124-601 Transcript and Other	\$	25,000	\$	25,000	87134
TOTAL GSF General Services					87135
Fund Group	\$	25,000	\$	25,000	87136
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170	87137

TRANSCRIPT AND OTHER 87138

The foregoing appropriation item 124-601, Transcript and 87139  
 Other, may be used to defray the costs of producing an 87140  
 administrative record. 87141

**Section 81. PRX STATE BOARD OF PHARMACY** 87142

General Services Fund Group					87143
4A5 887-605 Drug Law Enforcement	\$	72,900	\$	75,550	87144
4K9 887-609 Operating Expenses	\$	4,733,987	\$	4,914,594	87145
TOTAL GSF General Services					87146
Fund Group	\$	4,806,887	\$	4,990,144	87147
TOTAL ALL BUDGET FUND GROUPS	\$	4,806,887	\$	4,990,144	87148

**Section 82. PSY STATE BOARD OF PSYCHOLOGY** 87150

General Services Fund Group					87151
4K9 882-609 Operating Expenses	\$	564,544	\$	561,525	87152
TOTAL GSF General Services					87153
Fund Group	\$	564,544	\$	561,525	87154
TOTAL ALL BUDGET FUND GROUPS	\$	564,544	\$	561,525	87155

**Section 83. PUB OHIO PUBLIC DEFENDER COMMISSION** 87157

General Revenue Fund					87158
GRF 019-321 Public Defender	\$	1,430,057	\$	1,351,494	87159
Administration					

GRF 019-401	State Legal Defense Services	\$	5,974,780	\$	5,943,572	87160
GRF 019-403	Multi-County: State Share	\$	917,668	\$	930,894	87161
GRF 019-404	Trumbull County - State Share	\$	299,546	\$	308,450	87162
GRF 019-405	Training Account	\$	33,323	\$	33,323	87163
GRF 019-501	County Reimbursement - Non-Capital Cases	\$	30,567,240	\$	32,630,070	87164
GRF 019-503	County Reimbursement - Capital Cases	\$	693,000	\$	726,000	87165
TOTAL GRF	General Revenue Fund	\$	39,915,614	\$	41,923,803	87166
	General Services Fund Group					87167
101 019-602	Inmate Legal Assistance	\$	52,698	\$	53,086	87168
406 019-603	Training and Publications	\$	16,000	\$	16,000	87169
407 019-604	County Representation	\$	255,789	\$	259,139	87170
408 019-605	Client Payments	\$	285,533	\$	285,533	87171
TOTAL GSF	General Services Fund Group	\$	610,020	\$	613,758	87172 87173
	Federal Special Revenue Fund Group					87174
3S8 019-608	Federal Representation	\$	351,428	\$	355,950	87175
TOTAL FED	Federal Special Revenue Fund Group	\$	351,428	\$	355,950	87176 87177
	State Special Revenue Fund Group					87178
4C7 019-601	Multi-County: County Share	\$	1,923,780	\$	1,991,506	87179
4X7 019-610	Trumbull County - County Share	\$	624,841	\$	658,764	87180
574 019-606	Legal Services Corporation	\$	14,305,700	\$	14,305,800	87181

TOTAL SSR State Special Revenue				87182	
Fund Group	\$	16,854,321	\$	16,956,070	87183
TOTAL ALL BUDGET FUND GROUPS	\$	57,731,383	\$	59,849,581	87184
JUVENILE REPRESENTATION				87185	
Of the foregoing appropriation item 019-401, State Legal				87186	
Defense Services, at least \$250,000 in each fiscal year shall be				87187	
used to provide legal services and assistance to juveniles.				87188	
INDIGENT DEFENSE OFFICE				87189	
The foregoing appropriation items 019-404, Trumbull County -				87190	
State Share, and 019-610, Trumbull County - County Share, shall be				87191	
used to support an indigent defense office for Trumbull County.				87192	
MULTI-COUNTY OFFICE				87193	
The foregoing appropriation items 019-403, Multi-County:				87194	
State Share, and 019-601, Multi-County: County Share, shall be				87195	
used to support the Office of the Ohio Public Defender's				87196	
Multi-County Branch Office Program.				87197	
TRAINING ACCOUNT				87198	
The foregoing appropriation item 019-405, Training Account,				87199	
shall be used by the Ohio Public Defender to provide legal				87200	
training programs at no cost for private appointed counsel who				87201	
represent at least one indigent defendant at no cost and for state				87202	
and county public defenders and attorneys who contract with the				87203	
Ohio Public Defender to provide indigent defense services.				87204	
FEDERAL REPRESENTATION				87205	
The foregoing appropriation item 019-608, Federal				87206	
Representation, shall be used to receive reimbursements from the				87207	
federal courts when the Ohio Public Defender provides				87208	
representation in federal court cases and to support				87209	
representation in such cases.				87210	

<b>Section 84. DHS DEPARTMENT OF PUBLIC SAFETY</b>				87211
General Revenue Fund				87212
GRF 763-403	Operating Expenses -	\$ 4,058,188	\$ 4,058,188	87213
	EMA			
GRF 763-507	Individual and	\$ 48,750	\$ 48,750	87214
	Households Grants			
GRF 768-413	Grants-Volunteer Fire	\$ 647,953	\$ 647,953	87215
	Departments			
GRF 769-321	Food Stamp Trafficking	\$ 800,000	\$ 800,000	87216
	Enforcement Operations			
TOTAL GRF	General Revenue Fund	\$ 5,554,891	\$ 5,554,891	87217
General Services Fund				87218
224 768-658	Small Government Fire	\$ 250,000	\$ 250,000	87219
	Departments			
TOTAL GSF	General Services Fund	\$ 250,000	\$ 250,000	87220
State Special Revenue Fund				87221
5B9 766-632	PI & Security Guard	\$ 404,166	\$ 1,188,716	87222
	Provider			
5Y1 768-620	Fireworks Training and	\$ 10,976	\$ 10,976	87223
	Education			
5Y2 768-635	Fire Marshal	\$ 7,855,076	\$ 11,787,994	87224
TOTAL SSR	State Special Revenue	\$ 8,270,218	\$ 12,987,686	87225
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 14,075,109	\$ 18,792,577	87226
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT				87227
Of the foregoing appropriation item 763-403, Operating				87228
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund				87229
the Ohio Task Force One - Urban Search and Rescue Unit and other				87230
urban search and rescue programs around the state to create a				87231
stronger search and rescue capability statewide.				87232

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 87233

The foregoing appropriation item 763-507, Individual and 87234  
Households Grants, shall be used to fund the state share of costs 87235  
to provide grants to individuals and households in cases of 87236  
disaster. 87237

GRANTS-VOLUNTEER FIRE DEPARTMENTS 87238

The foregoing appropriation item 768-402, Grants-Volunteer 87239  
Fire Departments, shall be used to make annual grants to volunteer 87240  
fire departments of up to \$10,000 or up to \$25,000 if the 87241  
volunteer fire department provides service for an area affected by 87242  
a natural disaster. Beginning October 1, 2003, the grant program 87243  
shall be administered by the Fire Marshal under the Department of 87244  
Public Safety. The Fire Marshal shall adopt rules necessary for 87245  
the administration and operation of the grant program. 87246

SMALL GOVERNMENT FIRE DEPARTMENTS 87247

After October 1, 2003, upon the request of the Director of 87248  
Public Safety, the Director of Budget and Management shall 87249  
transfer \$250,000 cash in each fiscal year from the State Fire 87250  
Marshal Fund (Fund 5Y2) within the State Special Revenue Fund 87251  
Group to the Small Government Fire Departments Fund (Fund 224) 87252  
within the General Services Fund Group. 87253

Notwithstanding section 3737.17 of the Revised Code, the 87254  
foregoing appropriation item 768-658, Small Government Fire 87255  
Departments, may be used to provide loans to private fire 87256  
departments. 87257

FIRE MARSHAL FUND 87258

On October 1, 2003, the State Fire Marshal Fund (Fund 546) 87259  
shall be transferred from the Department of Commerce to the 87260  
Department of Public Safety. At the request of the Director of 87261  
Commerce, the Director of Budget and Management may cancel 87262

encumbrances in these funds from the Department of Commerce's 87263  
appropriation item 800-610, Fire Marshal, and reestablish such 87264  
encumbrances or parts of encumbrances in fiscal year 2004 for the 87265  
same purpose and to the same vendor in the Department of Public 87266  
Safety's appropriation item 768-635, Fire Marshal. The Director of 87267  
Budget and Management shall reduce the appropriation balances in 87268  
fiscal year 2003 by the amount of encumbrances canceled in the 87269  
funds. As determined by the Director of Budget and Management, the 87270  
appropriation authority necessary to reestablish such encumbrances 87271  
or parts of encumbrances in fiscal year 2004 for the Department of 87272  
Public Safety is hereby appropriated. On July 31, 2003, or as soon 87273  
as possible thereafter, the Director of Budget and Management 87274  
shall transfer \$1,800,000 cash from the Fire Marshal Fund (Fund 87275  
546) to the Department of Commerce, Division of Administration 87276  
Fund (Fund 163, 800-620). 87277

FIREWORKS TRAINING AND EDUCATION FUND 87278

On October 1, 2003, the Fireworks Training & Education Fund 87279  
(Fund 4L5) shall be transferred from the Department of Commerce to 87280  
the Department of Public Safety. At the request of the Director of 87281  
Commerce, the Director of Budget and Management may cancel 87282  
encumbrances in these funds from the Department of Commerce's 87283  
appropriation item 800-609, Fire Marshal, and reestablish such 87284  
encumbrances or parts of encumbrances in fiscal year 2004 for the 87285  
same purpose and to the same vendor in the Department of Public 87286  
Safety's appropriation item 768-620, Fireworks Training and 87287  
Education. The Director of Budget and Management shall reduce the 87288  
appropriation balances in fiscal year 2003 by the amount of 87289  
encumbrances canceled in the funds. As determined by the Director 87290  
of Budget and Management, the appropriation authority necessary to 87291  
reestablish such encumbrances or parts of encumbrances in fiscal 87292  
year 2004 for the Department of Public Safety is hereby 87293  
appropriated. 87294

GRANTS-VOLUNTEER FIRE DEPARTMENTS FUND 87295

On October 1, 2003, the Grants- Volunteer Fire Departments 87296  
Fund (Fund GRF) shall be transferred from the Department of 87297  
Commerce to the Department of Public Safety. At the request of the 87298  
Director of Commerce, the Director of Budget and Management may 87299  
cancel encumbrances in these funds from the Department of 87300  
Commerce's appropriation item 800-402, Grants- Volunteer Fire 87301  
Departments, and reestablish such encumbrances or parts of 87302  
encumbrances in fiscal year 2004 for the same purpose and to the 87303  
same vendor in the Department of Public Safety's appropriation 87304  
item 768-402, Grants-Volunteer Fire Departments. The Director of 87305  
Budget and Management shall reduce the appropriation balances in 87306  
fiscal year 2003 by the amount of encumbrances canceled in the 87307  
funds. As determined by the Director of Budget and Management, the 87308  
appropriation authority necessary to reestablish such encumbrances 87309  
or parts of encumbrances in fiscal year 2004 for the Department of 87310  
Public Safety is hereby appropriated. 87311

SMALL GOVERNMENT FIRE DEPARTMENTS FUND 87312

On October 1, 2003, the Small Government Fire Departments 87313  
Fund (Fund 5F1) shall be transferred from the Department of 87314  
Commerce to the Department of Public Safety. At the request of the 87315  
Director of Commerce, the Director of Budget and Management may 87316  
cancel encumbrances in these funds from the Department of 87317  
Commerce's appropriation item 800-635, Small Government Fire 87318  
Departments, and reestablish such encumbrances or parts of 87319  
encumbrances in fiscal year 2004 for the same purpose and to the 87320  
same vendor in the Department of Public Safety's appropriation 87321  
item 768-658, Small Government Fire Departments. The Director of 87322  
Budget and Management shall reduce the appropriation balances in 87323  
fiscal year 2003 by the amount of encumbrances canceled in the 87324  
funds. As determined by the Director of Budget and Management, the 87325  
appropriation authority necessary to reestablish such encumbrances 87326

or parts of encumbrances in fiscal year 2004 for the Department of 87327  
Public Safety is hereby appropriated. 87328

FIRE MARSHAL TRANSFER FROM COMMERCE TO PUBLIC SAFETY 87329

Notwithstanding any provision of law to the contrary, the 87330  
Director of Budget and Management is authorized to take the 87331  
actions described in this section. This section applies to budget 87332  
changes made necessary by administrative reorganization, program 87333  
transfers, the creation of new funds, and the consolidation of 87334  
funds as authorized by this act. The Director of Budget and 87335  
Management may make any transfers of cash balances between funds. 87336  
At the request of the Office of Budget and Management, the 87337  
administering agency head shall certify to the Director the amount 87338  
of an estimate of the amount of the cash balance to be transferred 87339  
to the receiving fund. The Director may transfer the estimated 87340  
amount or the estimate of the amount when needed to make payments. 87341  
Not more than thirty days after certifying the estimated amount 87342  
the administering agency head shall certify the final amount to 87343  
the Director. The Director shall transfer the difference between 87344  
any estimated amount previously transferred and the certified 87345  
final amount. 87346

Any fiscal year 2003 and 2004 unencumbered or unallotted 87347  
appropriation balances may be transferred to the appropriate line 87348  
item to be used for the same purposes, as determined by the 87349  
Director of Budget and Management. 87350

On October 1, 2003, or the first day of the first pay period 87351  
commencing after the effective date of this section, whichever is 87352  
later, the licensing and enforcement functions of the Department 87353  
of Commerce, Division of State Fire Marshal conducted pursuant to 87354  
Chapter 3737. of the Revised Code and the assets, real estate 87355  
liabilities, any capital spending authority related thereto, 87356  
equipment, and records, regardless of form or medium, relating to 87357  
those functions are transferred to the Department of Public 87358

Safety. The Department of Public Safety thereupon assumes these 87359  
functions. 87360

Any business commenced but not completed by the Director or 87361  
Department of Commerce, Division of State Fire Marshal pursuant to 87362  
Chapter 3737. of the Revised Code on the effective date of this 87363  
section relating to the functions transferred under this section 87364  
shall be completed by the Director or Department of Public Safety 87365  
in the same manner, and with the same effect, as if completed by 87366  
the Director or Department of Commerce, Division of State Fire 87367  
Marshal. No validation, cure, right, privilege, remedy, 87368  
obligation, or liability is lost or impaired by reason of the 87369  
transfer of functions required by this section and shall be 87370  
administered by the Department of Public Safety. All of the rules, 87371  
orders, and determinations enacted or adopted by the Department of 87372  
Commerce, Division of State Fire Marshal relating to the transfer 87373  
of these functions continue in effect as rules, orders, and 87374  
determinations of the Department of Public Safety until modified 87375  
or rescinded by the Department of Public Safety. If necessary to 87376  
ensure the integrity of the numbering of the Administrative Code, 87377  
the Director of the Legislative Service Commission shall renumber 87378  
the rules of the Department of Commerce, Division of State Fire 87379  
Marshal enacted or adopted pursuant to Chapter 3737. of the 87380  
Revised Code to reflect their transfer to the Department of Public 87381  
Safety. 87382

Subject to the lay-off provisions of sections 124.321 to 87383  
124.328 of the Revised Code, all employees of the Department of 87384  
Commerce, Division of State Fire Marshal who perform functions 87385  
pursuant to Chapter 3737. of the Revised Code that are transferred 87386  
under this section are transferred to the Department of Public 87387  
Safety. The vehicles and equipment assigned to such employees are 87388  
also transferred to the Department of Public Safety. 87389

Whenever the Director or the Department of Commerce, or the 87390

Superintendent or the Division of State Fire Marshal is referred 87391  
to in any law, contract, or other document relating to the 87392  
functions transferred under this section, the reference shall be 87393  
deemed to refer to the Director or Department of Public Safety, 87394  
whichever is appropriate. 87395

No action or proceeding pending and no license or 87396  
registration issued as of the effective date of this section is 87397  
affected by the transfer, and shall be recognized, prosecuted, or 87398  
defended in the name of the Director of the Department of Public 87399  
Safety. In all such actions, the Director or Department of Public 87400  
Safety, upon application to the court, shall be substituted as a 87401  
party. 87402

PI & SECURITY GUARD PROVIDER FUND 87403

On January 1, 2004, the PI & Security Guard Provider Fund 87404  
(Fund 5B9) shall be transferred from the Department of Commerce to 87405  
the Department of Public Safety. At the request of the Director of 87406  
Commerce, the Director of Budget and Management may cancel 87407  
encumbrances in these funds from the Department of Commerce's 87408  
appropriation item 800-632, PI & Security Guard Provider, and 87409  
reestablish such encumbrances or parts of encumbrances in fiscal 87410  
year 2004 for the same purpose and to the same vendor in the 87411  
Department of Public Safety's appropriation item 766-632, PI & 87412  
Security Guard Provider. The Director of Budget and Management 87413  
shall reduce the appropriation balances in fiscal year 2003 by the 87414  
amount of encumbrances cancelled in the funds. As determined by 87415  
the Director of Budget and Management, the appropriation authority 87416  
necessary to reestablish such encumbrances or parts of 87417  
encumbrances in fiscal year 2004 for the Department of Public 87418  
Safety is hereby appropriated. 87419

PI & SECURITY GUARD TRANSFER FROM COMMERCE TO PUBLIC SAFETY 87420

Notwithstanding any provision of law to the contrary, the 87421

Director of Budget and Management is authorized to take the 87422  
actions described in this section. This section applies to budget 87423  
changes made necessary by administrative reorganization, program 87424  
transfers, the creation of new funds, and the consolidation of 87425  
funds as authorized by this act. The Director of Budget and 87426  
Management may make any transfers of cash balances between funds. 87427  
At the request of the Office of Budget and Management, the 87428  
administering agency head shall certify to the Director the amount 87429  
or an estimate of the amount of the cash balance to be transferred 87430  
to the receiving fund. The Director may transfer the amount or the 87431  
estimate of the amount when needed to make payments. Not more than 87432  
thirty days after certifying the estimated amount the 87433  
administering agency head shall certify the final amount to the 87434  
Director. The Director shall transfer the difference between any 87435  
estimated amount previously transferred and the certified final 87436  
amount. 87437

Any fiscal year 2003 and 2004 unencumbered or unallotted 87438  
appropriation balances may be transferred to the appropriate 87439  
appropriation item to be used for the same purposes, as determined 87440  
by the Director of Budget and Management. 87441

On January 1, 2004, or the first day of the first pay period 87442  
commencing after the effective date of this section, whichever is 87443  
later, the licensing and enforcement functions of the Department 87444  
of Commerce, Division of Real Estate and Professional Licensing 87445  
conducted pursuant to Chapter 4749. of the Revised Code and the 87446  
assets, liabilities, any capital spending authority related 87447  
thereto, equipment, and records, regardless of form or medium, 87448  
relating to those functions are transferred to the Department of 87449  
Public Safety. The Department of Public Safety thereupon assumes 87450  
these functions. 87451

Any business commenced but not completed by the Director or 87452  
Department of Commerce, Division of Real Estate and Professional 87453

Licensing pursuant to Chapter 4749. of the Revised Code on the 87454  
effective date of this section relating to the functions 87455  
transferred under this section shall be completed by the Director 87456  
or Department of Public Safety in the same manner, and with the 87457  
same effect, as if completed by the Director or Department of 87458  
Commerce, Division of Real Estate and Professional Licensing. No 87459  
validation, cure, right, privilege, remedy, obligation, or 87460  
liability is lost or impaired by reason of the transfer of 87461  
functions required by this section and shall be administered by 87462  
the Department of Public Safety. All of the rules, orders, and 87463  
determinations enacted or adopted by the Department of Commerce, 87464  
Division of Real Estate and Professional Licensing relating to the 87465  
transfer of these functions continue in effect as rules, orders, 87466  
and determinations of the Department of Public Safety until 87467  
modified or rescinded by the Department of Public Safety. If 87468  
necessary to ensure the integrity of the numbering of the 87469  
Administrative Code, the Director of the Legislative Service 87470  
Commission shall renumber the rules of the Department of Commerce, 87471  
Division of Real Estate and Professional Licensing enacted or 87472  
adopted pursuant to Chapter 4749. of the Revised Code to reflect 87473  
their transfer to the Department of Public Safety. 87474

Subject to the layoff provisions of sections 124.321 to 87475  
124.328 of the Revised Code, all employees of the Department of 87476  
Commerce, Division of Real Estate and Professional Licensing who 87477  
perform functions pursuant to Chapter 4749. of the Revised Code 87478  
that are transferred under this section are transferred to the 87479  
Department of Public Safety. The vehicles and equipment assigned 87480  
to such employees are also transferred to the Department of Public 87481  
Safety. 87482

Whenever the Director or the Department of Commerce, or the 87483  
Superintendent or the Division of Real Estate and Professional 87484  
Licensing is referred to in any law, contract, or other document 87485

relating to the functions transferred under this section, the 87486  
reference shall be deemed to refer to the Director or Department 87487  
of Public Safety, whichever is appropriate. 87488

No action or proceeding pending and no license or 87489  
registration issued as of the effective date of this section is 87490  
affected by the transfer, and shall be recognized, prosecuted, or 87491  
defended in the name of the Director of the Department of Public 87492  
Safety. In all such actions, the Director or Department of Public 87493  
Safety, upon application to the court, shall be substituted as a 87494  
party. 87495

**Section 85. PUC PUBLIC UTILITIES COMMISSION OF OHIO** 87496

General Services Fund Group 87497

5F6 870-622 Utility and Railroad \$ 30,622,222 \$ 30,622,222 87498

Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 87499

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,239 87500

Regulation

558 870-602 Salvage and Exchange \$ 16,477 \$ 4,000 87501

TOTAL GSF General Services 87502

Fund Group \$ 36,167,171 \$ 36,154,694 87503

Federal Special Revenue Fund Group 87504

3V3 870-604 Commercial Vehicle \$ 870,000 \$ 300,000 87505

Information

Systems/Networks

333 870-601 Gas Pipeline Safety \$ 597,957 \$ 597,957 87506

350 870-608 Motor Carrier Safety \$ 7,027,712 \$ 7,027,712 87507

TOTAL FED Federal Special Revenue 87508

Fund Group \$ 8,495,669 \$ 7,925,669 87509

State Special Revenue Fund Group 87510

4A3 870-614 Grade Crossing \$ 1,349,757 \$ 1,349,757 87511

Protection

		Devices-State				
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621 87512
4S6	870-618	Hazardous Material	\$	899,325	\$	614,325 87513
		Registration				
4S6	870-621	Hazardous Materials	\$	373,346	\$	373,346 87514
		Base State				
		Registration				
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986 87515
559	870-605	Public Utilities	\$	4,000	\$	4,000 87516
		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 87517
561	870-606	Power Siting Board	\$	337,210	\$	337,210 87518
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 87519
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 87520
		Transportation				
TOTAL SSR		State Special Revenue				87521
Fund Group			\$	4,911,245	\$	4,341,245 87522
Agency Fund Group						87523
4G4	870-616	Base State	\$	6,500,000	\$	6,500,000 87524
		Registration Program				
TOTAL AGY		Agency Fund Group	\$	6,500,000	\$	6,500,000 87525
TOTAL ALL BUDGET FUND GROUPS			\$	56,074,085	\$	54,921,608 87526
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				87527
		The Commercial Vehicle Information Systems and Networks Fund				87528
		is hereby created in the state treasury. The Commercial Vehicle				87529
		Information Systems and Networks Fund shall receive funding from				87530
		the United States Department of Transportation's Commercial				87531
		Vehicle Intelligent Transportation System Infrastructure				87532
		Deployment Program and shall be used to deploy the Ohio Commercial				87533
		Vehicle Information Systems and Networks Project and to expedite				87534
		and improve the safety of motor carrier operations through				87535

electronic exchange of data by means of on-highway electronic systems. 87536  
87537

Notwithstanding section 4905.80 of the Revised Code, up to 87538  
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 87539  
the foregoing appropriation item 870-618, Hazardous Material 87540  
Registration, may be used to pay the state share of the 87541  
implementation of the Ohio Commercial Vehicle Information Systems 87542  
and Networks Project. 87543

Notwithstanding section 4923.12 of the Revised Code, up to 87544  
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 87545  
the foregoing appropriation item 870-620, Civil Forfeitures, may 87546  
be used to pay the state share of the implementation of the Ohio 87547  
Commercial Vehicle Information Systems and Networks Project. 87548

**Section 86. PWC PUBLIC WORKS COMMISSION** 87549

General Revenue Fund 87550

GRF 150-904 Conservation General \$ 9,743,500 \$ 11,235,700 87551  
Obligation Debt  
Service

GRF 150-907 State Capital \$ 156,974,400 \$ 152,069,700 87552  
Improvements  
General Obligation 87553  
Debt Service

TOTAL GRF General Revenue Fund \$ 166,717,900 \$ 163,305,400 87554

Clean Ohio Fund Group 87555

056 150-403 Clean Ohio Operating \$ 298,200 \$ 304,400 87556  
Expenses

TOTAL 056 Clean Ohio Fund Group \$ 298,200 \$ 304,400 87557

TOTAL ALL BUDGET FUND GROUPS \$ 167,016,100 \$ 163,609,800 87558

**CONSERVATION GENERAL OBLIGATION DEBT SERVICE** 87559

The foregoing appropriation item 150-904, Conservation 87560

General Obligation Debt Service, shall be used to pay all debt 87561  
service and related financing costs at the times they are required 87562  
to be made pursuant to sections 151.01 and 151.09 of the Revised 87563  
Code during the period from July 1, 2003, to June 30, 2005. The 87564  
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

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 87568

The foregoing appropriation item 150-907, State Capital 87569  
Improvements General Obligation Debt Service, shall be used to pay 87570  
all debt service and related financing costs at the times they are 87571  
required to be made pursuant to sections 151.01 and 151.08 of the 87572  
Revised Code during the period from July 1, 2003, to June 30, 87573  
2005. The Office of the Sinking Fund or the Director of Budget and 87574  
Management shall effectuate the required payments by an intrastate 87575  
transfer voucher. 87576

CLEAN OHIO OPERATING EXPENSES 87577

The foregoing appropriation item 150-403, Clean Ohio 87578  
Operating Expenses, shall be used by the Ohio Public Works 87579  
Commission in administering sections 164.20 to 164.27 of the 87580  
Revised Code. 87581

**Section 87.** RAC STATE RACING COMMISSION 87582

State Special Revenue Fund Group 87583

5C4 875-607 Simulcast Horse Racing \$ 19,730,799 \$ 19,476,952 87584

Purse

562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378 87585

563 875-602 Standardbred \$ 2,908,841 \$ 3,161,675 87586

Development Fund

564 875-603 Quarterhorse \$ 1,000 \$ 2,000 87587

Development Fund

565 875-604	Racing Commission	\$	4,485,777	\$	4,759,834	87588
	Operating					
	TOTAL SSR State Special Revenue					87589
Fund Group		\$	31,768,795	\$	32,042,839	87590
	Holding Account Redistribution Fund Group					87591
R21 875-605	Bond Reimbursements	\$	212,900	\$	212,900	87592
	TOTAL 090 Holding Account					87593
	Redistribution					
Fund Group		\$	212,900	\$	212,900	87594
	TOTAL ALL BUDGET FUND GROUPS	\$	31,981,695	\$	32,255,739	87595
	<b>Section 88. BOR BOARD OF REGENTS</b>					87597
	General Revenue Fund					87598
GRF 235-321	Operating Expenses	\$	3,286,284	\$	2,767,219	87599
GRF 235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400	87600
GRF 235-402	Sea Grants	\$	274,895	\$	274,895	87601
GRF 235-403	Math/Science Teaching	\$	1,757,614	\$	1,757,614	87602
	Improvement					
GRF 235-404	College Readiness	\$	4,152,603	\$	4,401,759	87603
	Initiatives					
GRF 235-406	Articulation and	\$	900,000	\$	900,000	87604
	Transfer					
GRF 235-408	Midwest Higher	\$	82,500	\$	82,500	87605
	Education Compact					
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671	87606
GRF 235-414	State Grants and	\$	1,219,719	\$	1,211,373	87607
	Scholarship					
	Administration					
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300	87608
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720	87609
GRF 235-418	Access Challenge	\$	62,068,622	\$	62,068,622	87610
GRF 235-420	Success Challenge	\$	48,113,077	\$	48,113,077	87611

GRF 235-428	Appalachian New Economy Partnership	\$ 1,279,893	\$ 1,247,895	87612
GRF 235-451	Eminent Scholars	\$ 0	\$ 1,462,500	87613
GRF 235-454	Research Challenge	\$ 18,330,000	\$ 18,330,000	87614
GRF 235-455	EnterpriseOhio Network	\$ 1,505,262	\$ 1,465,650	87615
GRF 235-474	Area Health Education Centers Program Support	\$ 1,822,226	\$ 1,776,670	87616
GRF 235-477	Access Improvement Projects	\$ 1,048,664	\$ 1,080,124	87617
GRF 235-501	State Share of Instruction	\$ 1,572,522,610	\$ 1,615,762,698	87618
GRF 235-502	Student Support Services	\$ 870,675	\$ 848,908	87619
GRF 235-503	Ohio Instructional Grants	\$ 111,966,343	\$ 115,325,333	87620
GRF 235-504	War Orphans Scholarships	\$ 4,672,321	\$ 4,672,321	87621
GRF 235-507	OhioLINK	\$ 7,028,392	\$ 7,028,392	87622
GRF 235-508	Air Force Institute of Technology	\$ 2,196,523	\$ 2,153,860	87623
GRF 235-509	Displaced Homemakers	\$ 204,865	\$ 199,743	87624
GRF 235-510	Ohio Supercomputer Center	\$ 4,208,472	\$ 4,103,260	87625
GRF 235-511	Cooperative Extension Service	\$ 25,644,863	\$ 25,644,863	87626
GRF 235-513	Ohio University Voinovich Center	\$ 311,977	\$ 305,178	87627
GRF 235-514	Central State Supplement	\$ 11,039,203	\$ 11,039,203	87628
GRF 235-515	Case Western Reserve University School of Medicine	\$ 3,403,612	\$ 3,312,271	87629

GRF 235-518	Capitol Scholarship Programs	\$	245,000	\$	245,000	87630
GRF 235-519	Family Practice	\$	5,581,258	\$	5,441,726	87631
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289	87632
GRF 235-521	The Ohio State University Glenn Institute	\$	311,977	\$	305,178	87633
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819	87634
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179	87635
GRF 235-526	Primary Care Residencies	\$	2,755,601	\$	2,686,710	87636
GRF 235-527	Ohio Aerospace Institute	\$	2,033,607	\$	1,982,767	87637
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	87638
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646	87639
GRF 235-534	Student Workforce Development Grants	\$	2,437,500	\$	2,437,500	87640
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188	87641
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,649,011	\$	13,649,011	87642
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,226,126	\$	11,226,126	87643
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	8,750,156	\$	8,750,156	87644
GRF 235-539	Wright State University Clinical	\$	4,250,997	\$	4,250,997	87645

	Teaching					
GRF 235-540	Ohio University	\$	4,109,568	\$	4,109,568	87646
	Clinical Teaching					
GRF 235-541	Northeastern Ohio	\$	4,226,686	\$	4,226,686	87647
	Universities College					
	of Medicine Clinical					
	Teaching					
GRF 235-543	Ohio College of	\$	426,631	\$	426,631	87648
	Podiatric Medicine					
	Clinical Subsidy					
GRF 235-547	School of	\$	1,458,022	\$	1,421,572	87649
	International Business					
GRF 235-549	Part-time Student	\$	14,036,622	\$	14,457,721	87650
	Instructional Grants					
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936	87651
GRF 235-553	Dayton Area Graduate	\$	3,224,550	\$	3,143,937	87652
	Studies Institute					
GRF 235-554	Computer Science	\$	2,971,371	\$	2,897,086	87653
	Graduate Education					
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080	87654
GRF 235-556	Ohio Academic	\$	3,657,009	\$	3,803,289	87655
	Resources Network					
GRF 235-558	Long-term Care	\$	230,906	\$	225,134	87656
	Research					
GRF 235-561	Bowling Green State	\$	121,586	\$	118,546	87657
	University Canadian					
	Studies Center					
GRF 235-572	The Ohio State	\$	1,758,689	\$	1,714,723	87658
	University Clinic					
	Support					
GRF 235-583	Urban University	\$	5,899,236	\$	5,760,506	87659
	Programs					
GRF 235-585	Ohio University	\$	41,596	\$	40,556	87660

	Innovation Center				
GRF 235-587	Rural University	\$	1,305,510	\$	1,305,510 87661
	Projects				
GRF 235-588	Ohio Resource Center	\$	853,262	\$	853,262 87662
	for Mathematics,				
	Science, and Reading				
GRF 235-595	International Center	\$	137,352	\$	133,918 87663
	for Water Resources				
	Development				
GRF 235-596	Hazardous Materials	\$	339,647	\$	331,156 87664
	Program				
GRF 235-599	National Guard	\$	13,252,916	\$	14,578,208 87665
	Scholarship Program				
GRF 235-909	Higher Education	\$	97,668,000	\$	130,967,600 87666
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$	2,476,688,800	\$	2,528,792,936 87667
	General Services Fund Group				87668
220 235-614	Program Approval and	\$	400,000	\$	400,000 87669
	Reauthorization				
456 235-603	Sales and Services	\$	500,002	\$	500,003 87670
TOTAL GSF	General Services				87671
Fund Group		\$	900,002	\$	900,003 87672
	Federal Special Revenue Fund Group				87673
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000 87674
3N6 235-605	State Student	\$	2,196,680	\$	2,196,680 87675
	Incentive Grants				
3T0 235-610	National Health	\$	150,001	\$	150,001 87676
	Service Corps - Ohio				
	Loan Repayment				
312 235-609	Tech Prep	\$	183,850	\$	183,850 87677
312 235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691 87678

312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960	87679
312	235-615	Professional Development	\$	523,129	\$	523,129	87680
312	235-616	Workforce Investment Act Administration	\$	850,000	\$	850,000	87681
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590	87682
TOTAL FED Federal Special Revenue							87683
Fund Group			\$	10,439,814	\$	10,037,901	87684
State Special Revenue Fund Group							87685
4E8	235-602	Higher Educational Facility Commission Administration	\$	20,000	\$	20,000	87686
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	87687
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	87688
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	87689
TOTAL SSR State Special Revenue							87690
Fund Group			\$	2,149,870	\$	2,149,870	87691
TOTAL ALL BUDGET FUND GROUPS			\$	2,490,178,486	\$	2,541,880,710	87692

**Section 88.01. OPERATING EXPENSES** 87694

Of the foregoing appropriation item 235-321, Operating 87695  
 Expenses, up to \$500,000 shall be used in fiscal year 2004 to 87696  
 support the activities of the Commission on Higher Education and 87697  
 the Economy. The Commission shall recommend a strategy to improve 87698  
 the quality and efficiency of Ohio's higher education system to 87699  
 increase effectiveness, eliminate unnecessary duplication, broaden 87700

the use of technology, and determine how higher education can most 87701  
effectively support the state's economy, best prepare Ohio 87702  
students for Third Frontier jobs, and add to the quality of life 87703  
for Ohio's citizens. The Commission shall also study the ten year 87704  
plan for higher education in the context of curricula, the number 87705  
of higher education institutions, and the number and types of 87706  
higher education degrees in relation to the needs created through 87707  
the Third Frontier and other high technology economic initiatives. 87708  
The Director of Budget and Management may transfer any 87709  
unencumbered fiscal year 2004 balance to fiscal year 2005 to 87710  
support the activities of the Commission. 87711

LEASE RENTAL PAYMENTS 87712

The foregoing appropriation item 235-401, Lease Rental 87713  
Payments, shall be used to meet all payments at the times they are 87714  
required to be made during the period from July 1, 2003, to June 87715  
30, 2005, by the Board of Regents pursuant to leases and 87716  
agreements made under section 154.21 of the Revised Code, but 87717  
limited to the aggregate amount of \$463,377,100. Nothing in this 87718  
act shall be deemed to contravene the obligation of the state to 87719  
pay, without necessity for further appropriation, from the sources 87720  
pledged thereto, the bond service charges on obligations issued 87721  
pursuant to section 154.21 of the Revised Code. 87722

SEA GRANTS 87723

The foregoing appropriation item 235-402, Sea Grants, shall 87724  
be disbursed to the Ohio State University and shall be used to 87725  
conduct research on fish in Lake Erie. 87726

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT 87727

Appropriation item 235-403, Math/Science Teaching 87728  
Improvement, shall be used by the Board of Regents to support 87729  
programs such as OSI - Discovery designed to raise the quality of 87730  
mathematics and science teaching in primary and secondary 87731

education.	87732
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.	87733 87734 87735
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.	87736 87737 87738 87739
COLLEGE READINESS INITIATIVES	87740
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.	87741 87742 87743 87744
MIDWEST HIGHER EDUCATION COMPACT	87745
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.	87746 87747 87748
INFORMATION SYSTEM	87749
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.	87750 87751 87752 87753
<b>Section 88.02. JOBS CHALLENGE</b>	87754
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	87755 87756 87757 87758 87759 87760

shall be distributed as performance grants to EnterpriseOhio 87761  
Network campuses based upon each campus's documented performance 87762  
according to criteria established by the Board of Regents for 87763  
increasing training and related services to businesses, 87764  
industries, and public sector organizations. 87765

Of the foregoing appropriation item 235-415, Jobs Challenge, 87766  
\$2,819,345 in each fiscal year shall be allocated to the Targeted 87767  
Industries Training Grant Program to attract, develop, and retain 87768  
business and industry strategically important to the state's 87769  
economy. 87770

Also, in each fiscal year, \$3,758,182 shall be allocated to 87771  
the Higher Skills Incentives Program to promote and deliver 87772  
coordinated, comprehensive training to local employers and to 87773  
reward EnterpriseOhio Network campuses for increasing the amount 87774  
of non-credit skill upgrading services provided to Ohio employers 87775  
and employees. The funds shall be distributed to campuses in 87776  
proportion to each campus's share of noncredit job-related 87777  
training revenues received by all campuses for the previous fiscal 87778  
year. It is the intent of the General Assembly that this Higher 87779  
Skills Incentives component of the Jobs Challenge Program reward 87780  
campus noncredit job-related training efforts in the same manner 87781  
that the Research Challenge Program rewards campuses for their 87782  
ability to obtain sponsored research revenues. 87783

OHIO LEARNING NETWORK 87784

Appropriation item 235-417, Ohio Learning Network, shall be 87785  
used by the Board of Regents to support the continued 87786  
implementation of the Ohio Learning Network, a statewide 87787  
electronic collaborative effort designed to promote degree 87788  
completion of students, workforce training of employees, and 87789  
professional development through the use of advanced 87790  
telecommunications and distance education initiatives. 87791

ACCESS CHALLENGE 87792

In each fiscal year, the foregoing appropriation item 87793  
235-418, Access Challenge, shall be distributed to Ohio's 87794  
state-assisted access colleges and universities. For the purposes 87795  
of this allocation, "access campuses" includes state-assisted 87796  
community colleges, state community colleges, technical colleges, 87797  
Shawnee State University, Central State University, Cleveland 87798  
State University, the regional campuses of state-assisted 87799  
universities, and, where they are organizationally distinct and 87800  
identifiable, the community-technical colleges located at the 87801  
University of Cincinnati, Youngstown State University, and the 87802  
University of Akron. 87803

The purpose of Access Challenge is to reduce the student 87804  
share of costs for resident undergraduates enrolled in lower 87805  
division undergraduate courses at Ohio's access campuses. The 87806  
long-term goal is to make the student share of costs for these 87807  
students equivalent to the student share of costs for resident 87808  
undergraduate students enrolled throughout Ohio's public colleges 87809  
and universities. Access Challenge appropriations shall be used in 87810  
both years of the biennium to sustain, as much as possible, the 87811  
tuition restraint or tuition reduction that was achieved with 87812  
Access Challenge allocations in prior years. 87813

In fiscal year 2004, Access Challenge subsidies shall be 87814  
distributed by the Board of Regents to eligible access campuses on 87815  
the basis of the average of each campus's share of fiscal year 87816  
2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In 87817  
fiscal year 2005, Access Challenge subsidies shall be distributed 87818  
by the Board of Regents to eligible access campuses on the basis 87819  
of the average of each campus's share of fiscal year 2002 and 2003 87820  
all-terms subsidy-eligible General Studies FTEs. 87821

For the purposes of this calculation, Cleveland State 87822

University's enrollments shall be adjusted by the ratio of the sum 87823  
of subsidy-eligible lower-division FTE student enrollments 87824  
eligible for access funding to the sum of subsidy-eligible General 87825  
Studies FTE student enrollments at Central State University and 87826  
Shawnee State University, and for the following universities and 87827  
their regional campuses: the Ohio State University, Ohio 87828  
University, Kent State University, Bowling Green State University, 87829  
Miami University, the University of Cincinnati, the University of 87830  
Akron, and Wright State University. 87831

SUCCESS CHALLENGE 87832

The foregoing appropriation item 235-420, Success Challenge, 87833  
shall be used by the Board of Regents to promote degree completion 87834  
by students enrolled at a main campus of a state-assisted 87835  
university. 87836

In each fiscal year, seventy per cent of the appropriations 87837  
shall be distributed to state-assisted university main campuses in 87838  
proportion to each campus's share of the total statewide 87839  
bachelor's degrees granted by university main campuses to 87840  
"at-risk" students. In fiscal years 2004 and 2005, an "at-risk" 87841  
student means any undergraduate student who was eligible to 87842  
receive an Ohio Instructional Grant during the past ten years. An 87843  
eligible institution shall not receive its share of this 87844  
distribution until it has submitted a plan that addresses how the 87845  
subsidy will be used to better serve at-risk students and increase 87846  
their likelihood of successful completion of a bachelor's degree 87847  
program. The Board of Regents shall disseminate to all 87848  
state-supported institutions of higher education all such plans 87849  
submitted by institutions that received Success Challenge funds. 87850

In each fiscal year, thirty per cent of the appropriations 87851  
shall be distributed to university main campuses in proportion to 87852  
each campus's share of the total bachelor's degrees granted by 87853  
university main campuses to undergraduate students who completed 87854

their bachelor's degrees in a "timely manner" in the previous 87855  
fiscal year. For the purposes of this section, "timely manner" 87856  
means the normal time it would take for a full-time degree-seeking 87857  
undergraduate student to complete the student's degree. Generally, 87858  
for such students pursuing a bachelor's degree, "timely manner" 87859  
means four years. Exceptions to this general rule shall be 87860  
permitted for students enrolled in programs specifically designed 87861  
to be completed in a longer time period. The Board of Regents 87862  
shall collect data to assess the timely completion statistics by 87863  
university main campuses. 87864

APPALACHIAN NEW ECONOMY PARTNERSHIP 87865

The foregoing appropriation item 235-428, Appalachian New 87866  
Economy Partnership, shall be distributed to Ohio University to 87867  
continue a multi-campus and multi-agency coordinated effort to 87868  
link Appalachia to the new economy. Ohio University shall use 87869  
these funds to provide leadership in the development and 87870  
implementation of initiatives in the areas of entrepreneurship, 87871  
management, education, and technology. 87872

EMINENT SCHOLARS 87873

The foregoing appropriation item 235-451, Eminent Scholars, 87874  
shall be used by the Ohio Board of Regents to establish an Ohio 87875  
Eminent Scholars Program, the purpose of which is to invest 87876  
educational resources to address problems that are of vital 87877  
statewide significance while fostering the growth in eminence of 87878  
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 87879  
will allow Ohio universities to recruit senior faculty members 87880  
from outside Ohio who are nationally and internationally 87881  
recognized scholars in areas of science and technology that 87882  
provide the basic research platforms on which our technology and 87883  
commercialization efforts are built. Endowment grants of 87884  
approximately \$750,000 to state colleges and universities and 87885  
nonprofit Ohio institutions of higher education holding 87886

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 87919  
increasing the amount of external research funds, and shall 87920  
include an evaluation process to provide results of the increased 87921  
support. Each institutional plan for the investment of Research 87922  
Challenge moneys shall report on existing, planned, and/or 87923  
possible relationships with other State of Ohio science and 87924  
technology programs and funding recipients in order to further 87925  
ongoing statewide science and technology collaboration objectives. 87926  
The Board of Regents shall submit a biennial report of progress to 87927  
the General Assembly. 87928

ENTERPRISEOHIO NETWORK 87929

The foregoing appropriation item 235-455, EnterpriseOhio 87930  
Network, shall be allocated by the Board of Regents to continue 87931  
increasing the capabilities of the EnterpriseOhio Network to meet 87932  
the ongoing training needs of Ohio employers. Funds shall support 87933  
multicampus collaboration, best practice dissemination, and 87934  
capacity building projects. The Regents Advisory Committee for 87935  
Workforce Development, in its advisory role, shall advise in the 87936  
development of plans and activities. 87937

Of the foregoing appropriation item 235-455, EnterpriseOhio 87938  
Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 87939  
2005 shall be used by the Dayton Business/Sinclair College Jobs 87940  
Profiling Program. 87941

**Section 88.03.** AREA HEALTH EDUCATION CENTERS 87942

The foregoing appropriation item 235-474, Area Health 87943  
Education Centers Program Support, shall be used by the Board of 87944  
Regents to support the medical school regional area health 87945  
education centers' educational programs for the continued support 87946  
of medical and other health professions education and for support 87947  
of the Area Health Education Center Program. 87948

Of the foregoing appropriation item 235-474, Area Health 87949  
Education Centers Program Support, \$174,135 in fiscal year 2004 87950  
and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio 87951  
University College of Osteopathic Medicine to operate a mobile 87952  
health care unit to serve the southeastern area of the state. Of 87953  
the foregoing appropriation item 235-474, Area Health Education 87954  
Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 87955  
in fiscal year 2005 shall be used to support the Ohio Valley 87956  
Community Health Information Network (OVCHIN) project. 87957

ACCESS IMPROVEMENT PROJECTS 87958

The foregoing appropriation item 235-477, Access Improvement 87959  
Projects, shall be used by the Board of Regents to support 87960  
innovative statewide strategies to increase student access and 87961  
retention for specialized populations, and to provide for pilot 87962  
projects that will contribute to improving access to higher 87963  
education by specialized populations. The funds may be used for 87964  
projects that improve access for nonpublic secondary students. 87965

Of the foregoing appropriation item 235-477, Access 87966  
Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in 87967  
fiscal year 2005 shall be distributed to the Ohio Appalachian 87968  
Center for Higher Education at Shawnee State University. The board 87969  
of directors of the center shall consist of the presidents of 87970  
Shawnee State University, Ohio University, Belmont community 87971  
College, Hocking Technical College, Jefferson Community College, 87972  
Muskingum Area Technical College, Rio Grande Community College, 87973  
Southern State Community College, and Washington State Community 87974  
College; the dean of one of the Salem, Tuscarawas, and East 87975  
Liverpool regional campuses of Kent State University, as 87976  
designated by the president of Kent State University; and a 87977  
representative of the Board of Regents designated by the 87978  
Chancellor. 87979

Of the foregoing appropriation item 235-477, Access 87980  
Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in 87981  
fiscal year 2005 shall be distributed to Miami University for the 87982  
Student Achievement in Research and Scholarship (STARS) Program. 87983

**Section 88.04.** STATE SHARE OF INSTRUCTION 87984

As soon as practicable during each fiscal year of the 87985  
2003-2005 biennium in accordance with instructions of the Board of 87986  
Regents, each state-assisted institution of higher education shall 87987  
report its actual enrollment to the Board of Regents. 87988

The Board of Regents shall establish procedures required by 87989  
the system of formulas set out below and for the assignment of 87990  
individual institutions to categories described in the formulas. 87991  
The system of formulas establishes the manner in which aggregate 87992  
expenditure requirements shall be determined for each of the three 87993  
components of institutional operations. In addition to other 87994  
adjustments and calculations described below, the subsidy 87995  
entitlement of an institution shall be determined by subtracting 87996  
from the institution's aggregate expenditure requirements income 87997  
to be derived from the local contributions assumed in calculating 87998  
the subsidy entitlements. The local contributions for purposes of 87999  
determining subsidy support shall not limit the authority of the 88000  
individual boards of trustees to establish fee levels. 88001

The General Studies and Technical models shall be adjusted by 88002  
the Board of Regents so that the share of state subsidy earned by 88003  
those models is not altered by changes in the overall local share. 88004  
A lower-division fee differential shall be used to maintain the 88005  
relationship that would have occurred between these models and the 88006  
baccalaureate models had an assumed share of 37 per cent been 88007  
funded. 88008

In defining the number of full-time equivalent (FTE) students 88009

for state subsidy purposes, the Board of Regents shall exclude all 88010  
undergraduate students who are not residents of Ohio, except those 88011  
charged in-state fees in accordance with reciprocity agreements 88012  
made pursuant to section 3333.17 of the Revised Code or employer 88013  
contracts entered into pursuant to section 3333.32 of the Revised 88014  
Code. 88015

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 88016

(1) INSTRUCTION AND SUPPORT SERVICES 88017

MODEL	FY 2004	FY 2005	
General Studies I	\$ 4,947	\$ 4,983	88018
General Studies II	\$ 5,323	\$ 5,336	88019
General Studies III	\$ 6,883	\$ 7,120	88020
Technical I	\$ 5,913	\$ 6,137	88021
Technical III	\$ 9,522	\$ 10,026	88022
Baccalaureate I	\$ 7,623	\$ 7,721	88023
Baccalaureate II	\$ 8,584	\$ 8,864	88024
Baccalaureate III	\$ 12,559	\$ 12,932	88025
Masters and Professional I	\$ 15,867	\$ 18,000	88026
Masters and Professional II	\$ 20,861	\$ 22,141	88027
Masters and Professional III	\$ 27,376	\$ 28,190	88028
Medical I	\$ 30,867	\$ 31,819	88029
Medical II	\$ 41,495	\$ 41,960	88030
MPD I	\$ 14,938	\$ 14,966	88031

(2) STUDENT SERVICES 88032

For this purpose, FTE counts shall be weighted to reflect 88033  
differences among institutions in the numbers of students enrolled 88034  
on a part-time basis. The student services subsidy per FTE shall 88035  
be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all 88036  
models. 88037  
88038

(B) PLANT OPERATION AND MAINTENANCE (POM) 88039

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 88040

Space undergoing renovation shall be funded at the rate 88041  
allowed for storage space. 88042

In the calculation of square footage for each campus, square 88043  
footage shall be weighted to reflect differences in space 88044  
utilization. 88045

The space inventories for each campus shall be those 88046  
determined in the fiscal year 2003 state share of instruction 88047  
calculation, adjusted for changes attributable to the construction 88048  
or renovation of facilities for which state appropriations were 88049  
made or local commitments were made prior to January 1, 1995. 88050

Only 50 per cent of the space permanently taken out of 88051  
operation in fiscal year 2004 or fiscal year 2005 that is not 88052  
otherwise replaced by a campus shall be deleted from the plant 88053  
operation and maintenance space inventory. 88054

The square-foot-based plant operation and maintenance subsidy 88055  
for each campus shall be determined as follows: 88056

(a) For each standard room type category shown below, the 88057  
subsidy-eligible net assignable square feet (NASF) for each campus 88058  
shall be multiplied by the following rates, and the amounts summed 88059  
for each campus to determine the total gross square-foot-based POM 88060  
expenditure requirement: 88061

	FY 2004	FY 2005	
Classrooms	\$5.80	\$6.04	88062
Laboratories	\$7.22	\$7.53	88063
Offices	\$5.80	\$6.04	88064
Audio Visual Data Processing	\$7.22	\$7.53	88065
Storage	\$2.57	\$2.68	88066
Circulation	\$7.31	\$7.62	88067
Other	\$5.80	\$6.04	88068

(b) The total gross square-foot POM expenditure requirement 88069  
shall be allocated to models in proportion to FTE enrollments as 88070  
88071

reported in enrollment data for all models except Doctoral I and 88072  
Doctoral II. 88073

(c) The amounts allocated to models in division (B)(1)(b) of 88074  
this section shall be multiplied by the ratio of subsidy-eligible 88075  
FTE students to total FTE students reported in each model, and the 88076  
amounts summed for all models. To this total amount shall be added 88077  
an amount to support roads and grounds expenditures to produce the 88078  
total square-foot-based POM subsidy. 88079

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 88080

(a) The number of subsidy-eligible FTE students in each model 88081  
shall be multiplied by the following rates for each campus for 88082  
each fiscal year. 88083

	FY 2004	FY 2005	
General Studies I	\$ 552	\$ 560	88084
General Studies II	\$ 696	\$ 705	88085
General Studies III	\$1,608	\$1,651	88086
Technical I	\$ 777	\$ 806	88087
Technical III	\$1,501	\$1,570	88088
Baccalaureate I	\$ 700	\$ 706	88089
Baccalaureate II	\$1,250	\$1,232	88090
Baccalaureate III	\$1,520	\$1,458	88091
Masters and Professional I	\$1,258	\$1,301	88092
Masters and Professional II	\$2,817	\$2,688	88093
Masters and Professional III	\$3,832	\$3,712	88094
Medical I	\$2,663	\$2,669	88095
Medical II	\$3,837	\$4,110	88096
MPD I	\$1,213	\$1,233	88097

(b) The sum of the products for each campus determined in 88099  
division (B)(2)(a) of this section for all models except Doctoral 88100  
I and Doctoral II for each fiscal year shall be weighted by a 88101  
factor to reflect sponsored research activity and job 88102  
training-related public services expenditures to determine the 88103

total activity-based POM subsidy.	88104
(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS	88105
(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS	88106
The calculation of the core subsidy entitlement shall consist	88107
of the following components:	88108
(a) For each campus and for each fiscal year, the core	88109
subsidy entitlement shall be determined by multiplying the amounts	88110
listed above in divisions (A)(1) and (2) and (B)(2) of this	88111
section less assumed local contributions, by (i) average	88112
subsidy-eligible FTEs for the two-year period ending in the prior	88113
year for all models except Doctoral I and Doctoral II; and (ii)	88114
average subsidy-eligible FTEs for the five-year period ending in	88115
the prior year for all models except Doctoral I and Doctoral II.	88116
(b) In calculating the core subsidy entitlements for Medical	88117
II models only, the Board of Regents shall use the following count	88118
of FTE students:	88119
(i) For those medical schools whose current year enrollment,	88120
including students repeating terms, is below the base enrollment,	88121
the Medical II FTE enrollment shall equal: 65 per cent of the base	88122
enrollment plus 35 per cent of the current year enrollment	88123
including students repeating terms, where the base enrollment is:	88124
The Ohio State University	1010 88125
University of Cincinnati	833 88126
Medical College of Ohio at Toledo	650 88127
Wright State University	433 88128
Ohio University	433 88129
Northeastern Ohio Universities College of	433 88130
Medicine	
(ii) For those medical schools whose current year enrollment,	88131
excluding students repeating terms, is equal to or greater than	88132
the base enrollment, the Medical II FTE enrollment shall equal the	88133

base enrollment plus the FTE for repeating students. 88134

(iii) Students repeating terms may be no more than five per 88135  
cent of current year enrollment. 88136

(c) The Board of Regents shall compute the sum of the two 88137  
calculations listed in division (C)(1)(a) of this section and use 88138  
the greater sum as the core subsidy entitlement. 88139

The POM subsidy for each campus shall equal the greater of 88140  
the square-foot-based subsidy or the activity-based POM subsidy 88141  
component of the core subsidy entitlement. 88142

(d) The state share of instruction provided for doctoral 88143  
students shall be based on a fixed percentage of the total 88144  
appropriation. In each fiscal year of the biennium not more than 88145  
10.34 per cent of the total state share of instruction shall be 88146  
reserved to implement the recommendations of the Graduate Funding 88147  
Commission. It is the intent of the General Assembly that the 88148  
doctoral reserve not exceed 10.34 per cent of the total state 88149  
share of instruction to implement the recommendations of the 88150  
Graduate Funding Commission. The Board of Regents may reallocate 88151  
up to two per cent in each fiscal year of the reserve among the 88152  
state-assisted universities on the basis of a quality review as 88153  
specified in the recommendations of the Graduate Funding 88154  
Commission. No such reallocation shall occur unless the Board of 88155  
Regents, in consultation with representatives of state-assisted 88156  
universities, determines that sufficient funds are available for 88157  
this purpose. 88158

The amount so reserved shall be allocated to universities in 88159  
proportion to their share of the total number of Doctoral I 88160  
equivalent FTEs as calculated on an institutional basis using the 88161  
greater of the two-year or five-year FTEs for the period fiscal 88162  
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 88163  
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 88164

adjusted to reflect the effects of doctoral review and subsequent 88165  
changes in Doctoral I equivalent enrollments. For the purposes of 88166  
this calculation, Doctoral I equivalent FTEs shall equal the sum 88167  
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 88168

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE 88169

In addition to and after the other adjustment noted above, in 88170  
fiscal years 2004 and 2005 each campus shall have its state share 88171  
of instruction adjusted to the extent necessary to meet the 88172  
following provisions: 88173

(a) If the total state share of instruction appropriation 88174  
relative to the prior year is 102 per cent or greater, no campus 88175  
shall receive a state share of instruction allocation that is less 88176  
than 99 per cent of the prior year's state share of instruction 88177  
amount; 88178

(b) If the total state share of instruction appropriation 88179  
relative to the prior year is greater than 95 per cent but less 88180  
than 102 per cent, no campus shall receive a state share of 88181  
instruction allocation that is less than three percentage points 88182  
below the percentage change in the total state share of 88183  
instruction percentage change; 88184

(c) If the total share of instruction appropriation relative 88185  
to the prior year is 95 per cent or less, no campus shall receive 88186  
a state share of instruction allocation that is less than 2.5 88187  
percentage points below the percentage change in the total state 88188  
share of instruction percentage change. 88189

(3) CAPITAL COMPONENT DEDUCTION 88190

After all other adjustments have been made, state share of 88191  
instruction earnings shall be reduced for each campus by the 88192  
amount, if any, by which debt service charged in Am. H.B. No. 748 88193  
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 88194  
General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, 88195

and H.B. No. 675 of the 124th General Assembly for that campus 88196  
exceeds that campus's capital component earnings. The sum of the 88197  
amounts deducted shall be transferred to appropriation item 88198  
235-552, Capital Component, in each fiscal year. 88199

(D) REDUCTIONS IN EARNINGS 88200

If the total state share of instruction earnings in any 88201  
fiscal year exceed the total appropriations available for such 88202  
purposes, the Board of Regents shall proportionately reduce the 88203  
state share of instruction earnings for all campuses by a uniform 88204  
percentage so that the system wide sum equals available 88205  
appropriations. 88206

(E) EXCEPTIONAL CIRCUMSTANCES 88207

Adjustments may be made to the state share of instruction 88208  
payments and other subsidies distributed by the Board of Regents 88209  
to state-assisted colleges and universities for exceptional 88210  
circumstances. No adjustments for exceptional circumstances may be 88211  
made without the recommendation of the Chancellor and the approval 88212  
of the Controlling Board. 88213

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 88214  
INSTRUCTION 88215

The standard provisions of the state share of instruction 88216  
calculation as described in the preceding sections of temporary 88217  
law shall apply to any reductions made to appropriation line item 88218  
235-501, State Share of Instruction, before the Board of Regents 88219  
has formally approved the final allocation of the state share of 88220  
instruction funds for any fiscal year. 88221

Any reductions made to appropriation line item 235-501, State 88222  
Share of Instruction, after the Board of Regents has formally 88223  
approved the final allocation of the state share of instruction 88224  
funds for any fiscal year, shall be uniformly applied to each 88225  
campus in proportion to its share of the final allocation. 88226

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 88227

The state share of instruction payments to the institutions 88228  
shall be in substantially equal monthly amounts during the fiscal 88229  
year, unless otherwise determined by the Director of Budget and 88230  
Management pursuant to section 126.09 of the Revised Code. 88231  
Payments during the first six months of the fiscal year shall be 88232  
based upon the state share of instruction appropriation estimates 88233  
made for the various institutions of higher education according to 88234  
Board of Regents enrollment estimates. Payments during the last 88235  
six months of the fiscal year shall be distributed after approval 88236  
of the Controlling Board upon the request of the Board of Regents. 88237

(H) LAW SCHOOL SUBSIDY 88238

The state share of instruction to state-supported 88239  
universities for students enrolled in law schools in fiscal year 88240  
2004 and fiscal year 2005 shall be calculated by using the number 88241  
of subsidy-eligible FTE law school students funded by state 88242  
subsidy in fiscal year 1995 or the actual number of 88243  
subsidy-eligible FTE law school students at the institution in the 88244  
fiscal year, whichever is less. 88245

**Section 88.05.** HIGHER EDUCATION - BOARD OF TRUSTEES 88246

Funds appropriated for instructional subsidies at colleges 88247  
and universities may be used to provide such branch or other 88248  
off-campus undergraduate courses of study and such master's degree 88249  
courses of study as may be approved by the Board of Regents. 88250

In providing instructional and other services to students, 88251  
boards of trustees of state-assisted institutions of higher 88252  
education shall supplement state subsidies by income from charges 88253  
to students. Each board shall establish the fees to be charged to 88254  
all students, including an instructional fee for educational and 88255  
associated operational support of the institution and a general 88256

fee for noninstructional services, including locally financed 88257  
student services facilities used for the benefit of enrolled 88258  
students. The instructional fee and the general fee shall 88259  
encompass all charges for services assessed uniformly to all 88260  
enrolled students. Each board may also establish special purpose 88261  
fees, service charges, and fines as required; such special purpose 88262  
fees and service charges shall be for services or benefits 88263  
furnished individual students or specific categories of students 88264  
and shall not be applied uniformly to all enrolled students. A 88265  
tuition surcharge shall be paid by all students who are not 88266  
residents of Ohio. 88267

The boards of trustees of individual state-assisted 88268  
universities, university branch campuses, community colleges, 88269  
state community colleges, and technical colleges shall limit 88270  
in-state undergraduate instructional and general fee increases for 88271  
an academic year over the amounts charged in the prior academic 88272  
year to no more than six per cent. In addition to the six per cent 88273  
main campus in-state undergraduate instructional and general fee 88274  
increase limit established in this section, the Board of Trustees 88275  
of The Ohio State University may authorize an additional 88276  
university main campus in-state undergraduate instructional and 88277  
general fee increase of three per cent for academic years 88278  
2003-2004 and 2004-2005. Except for the board of trustees of the 88279  
Ohio State University, the boards of trustees of individual 88280  
state-assisted universities, university branch campuses, community 88281  
colleges, state community colleges, and technical colleges shall 88282  
not authorize combined instructional and general fee increases of 88283  
more than six per cent in a single vote. The board of trustees of 88284  
The Ohio State University shall not authorize combined 88285  
instructional and general fee increases of more than nine per cent 88286  
in a single vote. The boards of trustees of individual 88287  
state-assisted universities, university branch campuses, community 88288  
colleges, state community colleges, and technical colleges may 88289

authorize an additional three per cent increase in in-state 88290  
undergraduate instructional and general fees in a separate vote. 88291  
The additional increase shall only be used for providing 88292  
scholarships to low-income students, to be known as Access 88293  
Scholarship Grants, or for any other special purpose that the 88294  
Board of Regents has approved. These fee increase limitations 88295  
apply even if an institutional board of trustees has, prior to the 88296  
effective date of this section, voted to assess a higher fee for 88297  
the 2003-2004 academic year. These limitations shall not apply to 88298  
increases required to comply with institutional covenants related 88299  
to their obligations or to meet unfunded legal mandates or legally 88300  
binding obligations incurred or commitments made prior to the 88301  
effective date of this act with respect to which the institution 88302  
had identified such fee increases as the source of funds. Any 88303  
increase required by such covenants and any such mandates, 88304  
obligations, or commitments shall be reported by the Board of 88305  
Regents to the Controlling Board. These limitations may also be 88306  
modified by the Board of Regents, with the approval of the 88307  
Controlling Board, to respond to exceptional circumstances as 88308  
identified by the Board of Regents. 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 not increase its instructional and general fees 88315  
during the summer term shall be defined as the sum of the 88316  
instructional and general fees charged to a full-time student in 88317  
the fall, winter, and spring 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 quarter 88323  
system that does increase its instructional and general fees 88324  
during the summer term shall be defined as three-fourths of the 88325  
sum of the instructional and general fees charged to a full-time 88326  
student in the fall, winter, spring, and summer quarters. 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 not increase its instructional and general fees 88333  
during the summer term shall be defined as the sum of the 88334  
instructional and general fees charged to a full-time student in 88335  
the fall and spring semesters. 88336

For purposes of calculating the instructional and general 88337  
fees charged in the prior academic year in implementing the 88338  
instructional and general fee increase limitations, the 88339  
instructional and general fees during an academic year for any 88340  
state-assisted institution of higher education on the semester 88341  
system that does increase its instructional and general fees 88342  
during the summer term shall be defined as two-thirds of the sum 88343  
of the instructional and general fees charged to a full-time 88344  
student in the fall, spring, and summer semesters. 88345

The board of trustees of a state-assisted institution of 88346  
higher education shall not authorize a waiver or nonpayment of 88347  
instructional fees or general fees for any particular student or 88348  
any class of students other than waivers specifically authorized 88349  
by law or approved by the Chancellor. This prohibition is not 88350  
intended to limit the authority of boards of trustees to provide 88351  
for payments to students for services rendered the institution, 88352  
nor to prohibit the budgeting of income for staff benefits or for 88353

student assistance in the form of payment of such instructional 88354  
and general fees. Each state-assisted institution of higher 88355  
education in its statement of charges to students shall separately 88356  
identify the instructional fee, the general fee, the tuition 88357  
charge, and the tuition surcharge. Fee charges to students for 88358  
instruction shall not be considered to be a price of service but 88359  
shall be considered to be an integral part of the state government 88360  
financing program in support of higher educational opportunity for 88361  
students. 88362

In providing the appropriations in support of instructional 88363  
services at state-assisted institutions of higher education and 88364  
the appropriations for other instruction it is the intent of the 88365  
General Assembly that faculty members shall devote a proper and 88366  
judicious part of their work week to the actual instruction of 88367  
students. Total class credit hours of production per quarter per 88368  
full-time faculty member is expected to meet the standards set 88369  
forth in the budget data submitted by the Board of Regents. 88370

The authority of government vested by law in the boards of 88371  
trustees of state-assisted institutions of higher education shall 88372  
in fact be exercised by those boards. Boards of trustees may 88373  
consult extensively with appropriate student and faculty groups. 88374  
Administrative decisions about the utilization of available 88375  
resources, about organizational structure, about disciplinary 88376  
procedure, about the operation and staffing of all auxiliary 88377  
facilities, and about administrative personnel shall be the 88378  
exclusive prerogative of boards of trustees. Any delegation of 88379  
authority by a board of trustees in other areas of responsibility 88380  
shall be accompanied by appropriate standards of guidance 88381  
concerning expected objectives in the exercise of such delegated 88382  
authority and shall be accompanied by periodic review of the 88383  
exercise of this delegated authority to the end that the public 88384  
interest, in contrast to any institutional or special interest, 88385

shall be served. 88386

**Section 88.06.** STUDENT SUPPORT SERVICES 88387

The foregoing appropriation item 235-502, Student Support 88388  
Services, shall be distributed by the Board of Regents to Ohio's 88389  
state-assisted colleges and universities that incur 88390  
disproportionate costs in the provision of support services to 88391  
disabled students. 88392

OHIO INSTRUCTIONAL GRANTS 88393

Notwithstanding section 3333.12 of the Revised Code, in lieu 88394  
of the tables in that section, instructional grants for all 88395  
full-time students shall be made for fiscal year 2004 using the 88396  
tables under this heading. 88397

The tables under this heading prescribe the maximum grant 88398  
amounts covering two semesters, three quarters, or a comparable 88399  
portion of one academic year. The grant amount for a full-time 88400  
student enrolled in an eligible institution for a semester or 88401  
quarter in addition to the portion of the academic year covered by 88402  
a grant determined under these tables shall be a percentage of the 88403  
maximum prescribed in the applicable table. The maximum grant for 88404  
a fourth quarter shall be one-third of the maximum amount 88405  
prescribed under the table. The maximum grant for a third semester 88406  
shall be one-half of the maximum amount prescribed under the 88407  
table. 88408

For a full-time student who is a dependent and enrolled in a 88409  
nonprofit educational institution that is not a state-assisted 88410  
institution and that has a certificate of authorization issued 88411  
pursuant to Chapter 1713. of the Revised Code, the amount of the 88412  
instructional grant for two semesters, three quarters, or a 88413  
comparable portion of the academic year shall be determined in 88414  
accordance with the following table: 88415

	Private Institution					88416
	Table of Grants					88417
	Maximum Grant \$5,466					88418
Gross Income	Number of Dependents					88419
	1	2	3	4	5 or more	88420
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	88421
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	88422
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	88423
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	88424
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	88425
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	88426
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	88427
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	88428
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	88429
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	88430
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	88431
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	88432
\$34,001 - \$35,000	444	888	984	1,080	1,344	88433
\$35,001 - \$36,000	--	444	888	984	1,080	88434
\$36,001 - \$37,000	--	--	444	888	984	88435
\$37,001 - \$38,000	--	--	--	444	888	88436
\$38,001 - \$39,000	--	--	--	--	444	88437

For a full-time student who is financially independent and 88438  
enrolled in a nonprofit educational institution that is not a 88439  
state-assisted institution and that has a certificate of 88440  
authorization issued pursuant to Chapter 1713. of the Revised 88441  
Code, the amount of the instructional grant for two semesters, 88442  
three quarters, or a comparable portion of the academic year shall 88443  
be determined in accordance with the following table: 88444

	Private Institution					88445
	Table of Grants					88446
	Maximum Grant \$5,466					88447

Gross Income	Number of Dependents						88448
	0	1	2	3	4	5 or more	88449
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	88450
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	88451
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466	88452
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466	88453
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466	88454
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466	88455
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028	88456
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584	88457
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158	88458
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726	88459
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282	88460
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838	88461
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394	88462
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166	88463
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848	88464
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662	88465
\$25,301 - \$30,300	--	324	438	546	1,014	1,476	88466
\$30,301 - \$35,300	--	198	216	270	324	792	88467

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	88476
Table of Grants	88477
Maximum Grant \$4,632	88478
Gross Income	88479
Number of Dependents	



Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	88511
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	88512
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632	88513
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632	88514
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632	88515
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632	88516
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272	88517
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876	88518
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504	88519
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156	88520
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760	88521
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412	88522
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058	88523
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836	88524
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560	88525
\$22,301 - \$25,300	--	372	456	858	1,242	1,416	88526
\$25,301 - \$30,300	--	282	372	456	858	1,242	88527
\$30,301 - \$35,300	--	168	180	228	282	666	88528

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							88534
Table of Grants							88535
Maximum Grant \$2,190							88536
Gross Income	Number of Dependents						88537
	1	2	3	4	5 or more		88538
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		88539
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		88540
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		88541
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		88542

\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	88543
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	88544
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	88545
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	88546
\$28,001 - \$31,000	522	648	864	1,080	1,320	88547
\$31,001 - \$32,000	420	522	648	864	1,080	88548
\$32,001 - \$33,000	384	420	522	648	864	88549
\$33,001 - \$34,000	354	384	420	522	648	88550
\$34,001 - \$35,000	174	354	384	420	522	88551
\$35,001 - \$36,000	--	174	354	384	420	88552
\$36,001 - \$37,000	--	--	174	354	384	88553
\$37,001 - \$38,000	--	--	--	174	354	88554
\$38,001 - \$39,000	--	--	--	--	174	88555

For a full-time student who is financially independent and 88556  
enrolled in a state-assisted educational institution, the amount 88557  
of the instructional grant for two semesters, three quarters, or a 88558  
comparable portion of the academic year shall be determined in 88559  
accordance with the following table: 88560

Public Institution 88561

Table of Grants 88562

Maximum Grant \$2,190 88563

Gross Income Number of Dependents 88564

	0	1	2	3	4	5 or more	
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	88565
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	88566
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190	88567
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190	88568
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190	88569
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190	88570
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016	88571
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830	88572
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674	88573

\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494	88575
\$11,801 - \$13,300	384	774	858	954	1,128	1,302	88576
\$13,301 - \$14,800	354	744	774	858	954	1,128	88577
\$14,801 - \$16,300	174	678	744	774	858	954	88578
\$16,301 - \$19,300	--	450	630	702	774	858	88579
\$19,301 - \$22,300	--	216	402	594	654	732	88580
\$22,301 - \$25,300	--	174	216	402	594	654	88581
\$25,301 - \$30,300	--	132	174	216	402	594	88582
\$30,301 - \$35,300	--	78	84	102	132	312	88583

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 88606

The foregoing appropriation item 235-508, Air Force Institute 88607  
of Technology, shall be used to strengthen the research and 88608  
educational linkages between the Wright Patterson Air Force Base 88609  
and institutions of higher education in Ohio. Of the foregoing 88610  
appropriation item 235-508, Air Force Institute of Technology, 88611  
\$1,380,000 in fiscal year 2004 and \$1,380,000 in fiscal year 2005 88612  
shall be used for research projects that connect the Air Force 88613  
Research Laboratories with university partners. The institute 88614  
shall provide annual reports to the Third Frontier Commission, 88615  
that discuss existing, planned, or possible collaborations between 88616  
programs and funding recipients related to technology, research 88617  
development, commercialization, and support for Ohio's economic 88618  
development. 88619

Of the foregoing appropriation item 235-508, Air Force 88620  
Institute of Technology, \$500,000 in each fiscal year shall be 88621  
used to match federal dollars to support the Wright Brothers 88622  
Institute. Funds shall be used by the Wright Brothers Institute to 88623  
create or expand Ohio-based technology and commercial development 88624  
collaborations between industry, academia, and government in areas 88625  
which include carbon nano-tube materials technology, genome-based 88626  
biotechnology, knowledge-creation information technology, 88627  
cognitive systems modeling and engineering, or other related 88628  
projects as deemed appropriate by the institute. 88629

Of the foregoing appropriation item 235-508, Air Force 88630  
Institute of Technology, \$316,523 in fiscal year 2004 and \$273,860 88631  
in fiscal year 2005 shall be used to directly support 88632  
collaborative research between academia, industry, and the Air 88633  
Force for Wright Brothers Institute Nanomaterials and Advanced 88634  
Data Management and Analysis. 88635

OHIO SUPERCOMPUTER CENTER 88636

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 88668  
alternatives to the growing of tobacco, and implement, through 88669  
applied research and demonstration, the production and marketing 88670  
of other high-value crops and value-added products. Of the 88671  
foregoing appropriation item 235-511, Cooperative Extension 88672  
Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 88673  
2005 shall be used for farm labor mediation and education 88674  
programs. Of the foregoing appropriation item 235-511, Cooperative 88675  
Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in 88676  
fiscal year 2005 shall be used to support the Ohio State 88677  
University Marion Enterprise Center. 88678

Of the foregoing appropriation item 235-511, Cooperative 88679  
Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in 88680  
fiscal year 2005 shall be used to support the Ohio Watersheds 88681  
Initiative. 88682

CENTRAL STATE SUPPLEMENT 88683

The foregoing appropriation item 235-514, Central State 88684  
Supplement, shall be used by Central State University to keep 88685  
undergraduate fees below the statewide average, consistent with 88686  
its mission of service to many first-generation college students 88687  
from groups historically underrepresented in higher education and 88688  
from families with limited incomes. 88689

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION 88690

The Board of Regents, in consultation with the state-assisted 88691  
medical colleges, shall develop performance standards for medical 88692  
education. Special emphasis in the standards shall be placed on 88693  
attempting to ensure that at least 50 per cent of the aggregate 88694  
number of students enrolled in state-assisted medical colleges 88695  
continue to enter residency as primary care physicians. Primary 88696  
care physicians are general family practice physicians, general 88697  
internal medicine practitioners, and general pediatric care 88698

physicians. The Board of Regents shall monitor medical school 88699  
performance in relation to their plans for reaching the 50 per 88700  
cent systemwide standard for primary care physicians. 88701

**Section 88.08.** CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 88702  
MEDICINE 88703

The foregoing appropriation item 235-515, Case Western 88704  
Reserve University School of Medicine, shall be disbursed to Case 88705  
Western Reserve University through the Board of Regents in 88706  
accordance with agreements entered into as provided for by section 88707  
3333.10 of the Revised Code, provided that the state support per 88708  
full-time medical student shall not exceed that provided to 88709  
full-time medical students at state universities. 88710

FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE 88711  
RESIDENCIES 88712

The Board of Regents shall develop plans consistent with 88713  
existing criteria and guidelines as may be required for the 88714  
distribution of appropriation items 235-519, Family Practice, 88715  
235-525, Geriatric Medicine, and 235-526, Primary Care 88716  
Residencies. 88717

SHAWNEE STATE SUPPLEMENT 88718

The foregoing appropriation item 235-520, Shawnee State 88719  
Supplement, shall be used by Shawnee State University as detailed 88720  
by both of the following: 88721

(A) To allow Shawnee State University to keep its 88722  
undergraduate fees below the statewide average, consistent with 88723  
its mission of service to an economically depressed Appalachian 88724  
region; 88725

(B) To allow Shawnee State University to employ new faculty 88726  
to develop and teach in new degree programs that meet the needs of 88727  
Appalachians. 88728

POLICE AND FIRE PROTECTION 88729

The foregoing appropriation item 235-524, Police and Fire 88730  
Protection, shall be used for police and fire services in the 88731  
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 88732  
Portsmouth, Xenia Township (Greene County), and Rootstown 88733  
Township, that may be used to assist these local governments in 88734  
providing police and fire protection for the central campus of the 88735  
state-affiliated university located therein. Each participating 88736  
municipality and township shall receive at least \$5,000 each year. 88737  
Funds shall be distributed according to the methodology employed 88738  
by the Board of Regents in the previous biennium. 88739

PRIMARY CARE RESIDENCIES 88740

The foregoing appropriation item 235-526, Primary Care 88741  
Residencies, shall be distributed in each fiscal year of the 88742  
biennium, based on whether or not the institution has submitted 88743  
and gained approval for a plan. If the institution does not have 88744  
an approved plan, it shall receive five per cent less funding per 88745  
student than it would have received from its annual allocation. 88746  
The remaining funding shall be distributed among those 88747  
institutions that meet or exceed their targets. 88748

OHIO AEROSPACE INSTITUTE 88749

The foregoing appropriation item 235-527, Ohio Aerospace 88750  
Institute, shall be distributed by the Board of Regents under 88751  
section 3333.042 of the Revised Code. 88752

ACADEMIC SCHOLARSHIPS 88753

The foregoing appropriation item 235-530, Academic 88754  
Scholarships, shall be used to provide academic scholarships to 88755  
students under section 3333.22 of the Revised Code. 88756

STUDENT CHOICE GRANTS 88757

The foregoing appropriation item 235-531, Student Choice 88758

Grants, shall be used to support the Student Choice Grant Program 88759  
created by section 3333.27 of the Revised Code. The unencumbered 88760  
balance of appropriation item 235-531, Student Choice Grants, at 88761  
the end of fiscal year 2004 shall be transferred to fiscal year 88762  
2005 for use under the same appropriation item to maintain grant 88763  
award amounts in fiscal year 2005 equal to the awards provided in 88764  
fiscal year 2004. The amounts transferred are hereby appropriated. 88765

STUDENT WORKFORCE DEVELOPMENT GRANTS 88766

The foregoing appropriation item 235-534, Student Workforce 88767  
Development Grants, shall be used to support the Student Workforce 88768  
Development Grant Program. Of the appropriated funds available, 88769  
the Board of Regents shall distribute grants to each eligible 88770  
student in an academic year. The size of each grant award shall be 88771  
determined by the Board of Regents based on the amount of funds 88772  
available for the program. 88773

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER 88774

The foregoing appropriation item 235-535, Ohio Agricultural 88775  
Research and Development Center, shall be disbursed through the 88776  
Board of Regents to The Ohio State University in monthly payments, 88777  
unless otherwise determined by the Director of Budget and 88778  
Management pursuant to section 126.09 of the Revised Code. The 88779  
Ohio Agricultural Research and Development Center shall not be 88780  
required to remit payment to The Ohio State University during the 88781  
2003-2005 biennium for cost reallocation assessments. The cost 88782  
reallocation assessments include, but are not limited to, any 88783  
assessment on state appropriations to the center. The Ohio 88784  
Agricultural Research and Development Center, in conjunction with 88785  
the Third Frontier Commission, shall provide for an independently 88786  
evaluated self-study of research excellence and commercial 88787  
relevance in a manner to be prescribed by the Third Frontier 88788  
Commission. 88789

Of the foregoing appropriation item 235-535, Ohio 88790  
Agricultural Research and Development Center, \$470,164 in fiscal 88791  
year 2004 and \$458,410 in fiscal year 2005 shall be used to 88792  
purchase equipment. 88793

Of the foregoing appropriation item 235-535, Ohio 88794  
Agricultural Research and Development Center, \$827,141 in fiscal 88795  
year 2004 and \$806,463 in fiscal year 2005 shall be distributed to 88796  
the Piketon Agricultural Research and Extension Center. 88797

Of the foregoing appropriation item 235-535, Ohio 88798  
Agricultural Research and Development Center, \$217,669 in fiscal 88799  
year 2004 and \$212,227 in fiscal year 2005 shall be distributed to 88800  
the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio 88801  
State University Medical College in cooperation with the Ohio 88802  
State University College of Agriculture. 88803

Of the foregoing appropriation item 235-535, Ohio 88804  
Agricultural Research and Development Center, \$43,534 in fiscal 88805  
year 2004 and \$42,445 in fiscal year 2005 shall be used to support 88806  
the Ohio Berry Administrator. 88807

Of the foregoing appropriation item 235-535, Ohio 88808  
Agricultural Research and Development Center, \$87,067 in fiscal 88809  
year 2004 and \$84,890 in fiscal year 2005 shall be used for the 88810  
development of agricultural crops and products not currently in 88811  
widespread production in Ohio, in order to increase the income and 88812  
viability of family farmers. 88813

STATE UNIVERSITY CLINICAL TEACHING 88814

The foregoing appropriation items 235-536, The Ohio State 88815  
University Clinical Teaching; 235-537, University of Cincinnati 88816  
Clinical Teaching; 235-538, Medical College of Ohio at Toledo 88817  
Clinical Teaching; 235-539, Wright State University Clinical 88818  
Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, 88819  
Northeastern Ohio Universities College of Medicine Clinical 88820

Teaching, shall be distributed through the Board of Regents. 88821

Of the foregoing appropriation item 235-539, Wright State 88822  
University Clinical Teaching, \$124,644 in each fiscal year of the 88823  
biennium shall be for the use of Wright State University's Ellis 88824  
Institute for Clinical Teaching Studies to operate the clinical 88825  
facility to serve the Greater Dayton area. 88826

SCHOOL OF INTERNATIONAL BUSINESS 88827

Of the foregoing appropriation item 235-547, School of 88828  
International Business, \$901,975 in fiscal year 2004 and \$879,426 88829  
in fiscal year 2005 shall be used for the continued development 88830  
and support of the School of International Business of the state 88831  
universities of northeast Ohio. The money shall go to the 88832  
University of Akron. These funds shall be used by the university 88833  
to establish a School of International Business located at the 88834  
University of Akron. It may confer with Kent State University, 88835  
Youngstown State University, and Cleveland State University as to 88836  
the curriculum and other matters regarding the school. 88837

Of the foregoing appropriation item 235-547, School of 88838  
International Business, \$181,318 in fiscal year 2004 and \$176,785 88839  
in fiscal year 2005 shall be used by the University of Toledo 88840  
College of Business for expansion of its international business 88841  
programs. 88842

Of the foregoing appropriation item 235-547, School of 88843  
International Business, \$181,318 in fiscal year 2004 and \$176,785 88844  
in fiscal year 2005 shall be used to support the Ohio State 88845  
University BioMEMS program. 88846

PART-TIME STUDENT INSTRUCTIONAL GRANTS 88847

The foregoing appropriation item 235-549, Part-time Student 88848  
Instructional Grants, shall be used to support a grant program for 88849  
part-time undergraduate students who are Ohio residents and who 88850  
are enrolled in degree granting programs. 88851

Eligibility for participation in the program shall include 88852  
degree granting educational institutions that hold a certificate 88853  
of registration from the State Board of Career Colleges and 88854  
Schools, and nonprofit institutions that have a certificate of 88855  
authorization issued pursuant to Chapter 1713. of the Revised 88856  
Code, as well as state-assisted colleges and universities. Grants 88857  
shall be given to students on the basis of need, as determined by 88858  
the college, which, in making these determinations, shall give 88859  
special consideration to single-parent heads-of-household and 88860  
displaced homemakers who enroll in an educational degree program 88861  
that prepares the individual for a career. In determining need, 88862  
the college also shall consider the availability of educational 88863  
assistance from a student's employer. It is the intent of the 88864  
General Assembly that these grants not supplant such assistance. 88865

**Section 88.09. CAPITAL COMPONENT** 88866

The foregoing appropriation item 235-552, Capital Component, 88867  
shall be used by the Board of Regents to implement the capital 88868  
funding policy for state-assisted colleges and universities 88869  
established in Am. H.B. No. 748 of the 121st General Assembly. 88870  
Appropriations from this item shall be distributed to all campuses 88871  
for which the estimated campus debt service attributable to new 88872  
qualifying capital projects is less than the campus's 88873  
formula-determined capital component allocation. Campus 88874  
allocations shall be determined by subtracting the estimated 88875  
campus debt service attributable to new qualifying capital 88876  
projects from the campus's formula-determined capital component 88877  
allocation. Moneys distributed from this appropriation item shall 88878  
be restricted to capital-related purposes. 88879

Any campus for which the estimated campus debt service 88880  
attributable to qualifying capital projects is greater than the 88881  
campus's formula-determined capital component allocation shall 88882

have the difference subtracted from its State Share of Instruction 88883  
allocation in each fiscal year. The sum of all such amounts shall 88884  
be transferred from appropriation item 235-501, State Share of 88885  
Instruction, to appropriation item 235-552, Capital Component. 88886

DAYTON AREA GRADUATE STUDIES INSTITUTE 88887

The foregoing appropriation item 235-553, Dayton Area 88888  
Graduate Studies Institute, shall be used by the Board of Regents 88889  
to support the Dayton Area Graduate Studies Institute, an 88890  
engineering graduate consortium of three universities in the 88891  
Dayton area: Wright State University, the University of Dayton, 88892  
and the Air Force Institute of Technology, with the participation 88893  
of the University of Cincinnati and The Ohio State University. 88894

Of the foregoing appropriation item 235-553, Dayton Area 88895  
Graduate Studies Institute, \$497,666 in fiscal year 2004 and 88896  
\$417,053 in fiscal year 2005 shall be used to directly support 88897  
collaborative research between academia, industry, and the Air 88898  
Force for Wright Brothers Institute Nanomaterials and Advanced 88899  
Data Management and Analysis. 88900

COMPUTER SCIENCE GRADUATE EDUCATION 88901

The foregoing appropriation item 235-554, Computer Science 88902  
Graduate Education, shall be used by the Board of Regents to 88903  
support improvements in graduate programs in computer science at 88904  
state-assisted universities. Up to \$174,135 in fiscal year 2004, 88905  
and up to \$169,782 in fiscal year 2005, may be used to support 88906  
collaborative efforts in graduate education in this program area. 88907  
The collaborative program shall be coordinated by the Ohio 88908  
Supercomputer Center. 88909

OHIO ACADEMIC RESOURCES NETWORK (OARNET) 88910

The foregoing appropriation item 235-556, Ohio Academic 88911  
Resources Network, shall be used to support the operations of the 88912  
Ohio Academic Resources Network, which shall include support for 88913

Ohio's state-assisted colleges and universities in maintaining and 88914  
enhancing network connections. The network shall give priority to 88915  
supporting the Third Frontier Network and allocating bandwidth to 88916  
programs directly supporting Ohio's economic development. 88917

LONG-TERM CARE RESEARCH 88918

The foregoing appropriation item 235-558, Long-term Care 88919  
Research, shall be disbursed to Miami University for long-term 88920  
care research. 88921

BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER 88922

The foregoing appropriation item 235-561, Bowling Green State 88923  
University Canadian Studies Center, shall be used by the Canadian 88924  
Studies Center at Bowling Green State University to study 88925  
opportunities for Ohio and Ohio businesses to benefit from the 88926  
Free Trade Agreement between the United States and Canada. 88927

THE OHIO STATE UNIVERSITY CLINIC SUPPORT 88928

The foregoing appropriation item 235-572, The Ohio State 88929  
University Clinic Support, shall be distributed through the Board 88930  
of Regents to The Ohio State University for support of dental and 88931  
veterinary medicine clinics. 88932

**Section 88.10.** URBAN UNIVERSITY PROGRAMS 88933

Of the foregoing appropriation item 235-583, Urban University 88934  
Programs, universities receiving funds that are used to support an 88935  
ongoing university unit shall certify periodically in a manner 88936  
approved by the Board of Regents that program funds are being 88937  
matched on a one-to-one basis with equivalent resources. Overhead 88938  
support may not be used to meet this requirement. Where Urban 88939  
University Program funds are being used to support an ongoing 88940  
university unit, matching funds shall come from continuing rather 88941  
than one-time sources. At each participating state-assisted 88942  
institution of higher education, matching funds shall be within 88943

the substantial control of the individual designated by the 88944  
institution's president as the Urban University Program 88945  
representative. 88946

Of the foregoing appropriation item 235-583, Urban University 88947  
Programs, \$317,754 in fiscal year 2004 and \$309,811 in fiscal year 88948  
2005 shall be used to support a public communication outreach 88949  
program (WCPN). The primary purpose of the program shall be to 88950  
develop a relationship between Cleveland State University and 88951  
nonprofit communications entities. 88952

Of the foregoing appropriation item 235-583, Urban University 88953  
Programs, \$150,515 in fiscal year 2004 and \$146,753 in fiscal year 88954  
2005 shall be used to support the Center for the Interdisciplinary 88955  
Study of Education and the Urban Child at Cleveland State 88956  
University. These funds shall be distributed according to rules 88957  
adopted by the Board of Regents and shall be used by the center 88958  
for interdisciplinary activities targeted toward increasing the 88959  
chance of lifetime success of the urban child, including 88960  
interventions beginning with the prenatal period. The primary 88961  
purpose of the center is to study issues in urban education and to 88962  
systematically map directions for new approaches and new solutions 88963  
by bringing together a cadre of researchers, scholars, and 88964  
professionals representing the social, behavioral, education, and 88965  
health disciplines. 88966

Of the foregoing appropriation item 235-583, Urban University 88967  
Programs, \$217,411 in fiscal year 2004 and \$211,976 in fiscal year 88968  
2005 shall be used to support the Kent State University Learning 88969  
and Technology Project. This project is a kindergarten through 88970  
university collaboration between schools surrounding Kent's eight 88971  
campuses in northeast Ohio, and corporate partners who will assist 88972  
in development and delivery. 88973

The Kent State University Project shall provide a faculty 88974  
member who has a full-time role in the development of 88975

collaborative activities and teacher instructional programming 88976  
between Kent and the K-12th grade schools that surround its eight 88977  
campuses; appropriate student support staff to facilitate these 88978  
programs and joint activities; and hardware and software to 88979  
schools that will make possible the delivery of instruction to 88980  
pre-service and in-service teachers, and their students, in their 88981  
own classrooms or school buildings. This shall involve the 88982  
delivery of low-bandwidth streaming video and web-based 88983  
technologies in a distributed instructional model. 88984

Of the foregoing appropriation item 235-583, Urban University 88985  
Programs, \$83,619 in fiscal year 2004 and \$81,529 in fiscal year 88986  
2005 shall be used to support the Ameritech Classroom/Center 88987  
for Research at Kent State University. 88988

Of the foregoing appropriation item 235-583, Urban University 88989  
Programs, \$836,198 in fiscal year 2004 and \$815,293 in fiscal year 88990  
2005 shall be used to support the Polymer Distance Learning 88991  
Project at the University of Akron. 88992

Of the foregoing appropriation item 235-583, Urban University 88993  
Programs, \$41,810 in fiscal year 2004 and \$40,765 in fiscal year 88994  
2005 shall be distributed to the Kent State University/Cleveland 88995  
Design Center program. 88996

Of the foregoing appropriation item 235-583, Urban University 88997  
Programs, \$209,049 in fiscal year 2004 and \$203,823 in fiscal year 88998  
2005 shall be used to support the Bliss Institute of Applied 88999  
Politics at the University of Akron. 89000

Of the foregoing appropriation item 235-583, Urban University 89001  
Programs, \$12,544 in fiscal year 2004 and \$12,228 in fiscal year 89002  
2005 shall be used for the Advancing-Up Program at the University 89003  
of Akron. 89004

Of the foregoing appropriation item 235-583, Urban University 89005  
Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal 89006

year 2005 shall be distributed by the Board of Regents to 89007  
Cleveland State University in support of the Maxine Goodman Levin 89008  
College of Urban Affairs. 89009

Of the foregoing appropriation item 235-583, Urban University 89010  
Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal 89011  
year 2005 shall be distributed to the Northeast Ohio Research 89012  
Consortium, the Urban Linkages Program, and the Urban Research 89013  
Technical Assistance Grant Program. The distribution among the 89014  
three programs shall be determined by the chair of the Urban 89015  
University Program. 89016

Of the foregoing appropriation item 235-583, Urban University 89017  
Programs, \$175,000 in each fiscal year shall be used to support 89018  
the Strategic Economic Research Collaborative at the University of 89019  
Toledo Urban Affairs Center. 89020

Of the foregoing appropriation item 235-583, Urban University 89021  
Programs, \$175,000 in each fiscal year shall be used to support 89022  
the Institute for Collaborative Research and Public Humanities at 89023  
The Ohio State University. 89024

RURAL UNIVERSITY PROJECTS 89025

Of the foregoing appropriation item 235-587, Rural University 89026  
Projects, Bowling Green State University shall receive \$300,005 in 89027  
fiscal year 2004 and \$300,005 in fiscal year 2005, Miami 89028  
University shall receive \$279,005 in fiscal year 2004 and \$279,005 89029  
in fiscal year 2005, and Ohio University shall receive \$653,973 in 89030  
fiscal year 2004 and \$653,973 in fiscal year 2005. These funds 89031  
shall be used to support the Institute for Local Government 89032  
Administration and Rural Development at Ohio University, the 89033  
Center for Public Management and Regional Affairs at Miami 89034  
University, and the Center for Policy Analysis and Public Service 89035  
at Bowling Green State University. 89036

A small portion of the funds provided to Ohio University 89037

shall also be used for the Institute for Local Government 89038  
Administration and Rural Development State and Rural Policy 89039  
Partnership with the Governor's Office of Appalachia and the 89040  
Appalachian delegation of the General Assembly. 89041

Of the foregoing appropriation item 235-587, Rural University 89042  
Projects, \$18,131 in fiscal year 2004 and \$18,131 in fiscal year 89043  
2005 shall be used to support the Washington State Community 89044  
College day care center. 89045

Of the foregoing appropriation item 235-587, Rural University 89046  
Projects, \$54,396 in fiscal year 2004 and \$54,396 in fiscal year 89047  
2005 shall be used to support the COAD/ILGARD/GOA Appalachian 89048  
Leadership Initiative. 89049

**Section 88.11.** OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, 89050  
AND READING 89051

The foregoing appropriation item 235-588, Ohio Resource 89052  
Center for Mathematics, Science, and Reading, shall be used to 89053  
support a resource center for mathematics, science, and reading to 89054  
be located at a state-assisted university for the purpose of 89055  
identifying best educational practices in primary and secondary 89056  
schools and establishing methods for communicating them to 89057  
colleges of education and school districts. The Ohio Resource 89058  
Center for Mathematics, Science, and Reading shall not make 89059  
available resources that are inconsistent with standards and 89060  
policies of the State Board of Education. 89061

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT 89062

The foregoing appropriation item 235-595, International 89063  
Center for Water Resources Development, shall be used to support 89064  
the International Center for Water Resources Development at 89065  
Central State University. The center shall develop methods to 89066  
improve the management of water resources for Ohio and for 89067

emerging nations. 89068

HAZARDOUS MATERIALS PROGRAM 89069

The foregoing appropriation item 235-596, Hazardous Materials 89070  
Program, shall be disbursed to Cleveland State University for the 89071  
operation of a program to certify firefighters for the handling of 89072  
hazardous materials. Training shall be available to all Ohio 89073  
firefighters. 89074

Of the foregoing appropriation item 235-596, Hazardous 89075  
Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in 89076  
fiscal year 2005 shall be used to support the Center for the 89077  
Interdisciplinary Study of Education and Leadership in Public 89078  
Service at Cleveland State University. These funds shall be 89079  
distributed by the Board of Regents and shall be used by the 89080  
center targeted toward increasing the role of special populations 89081  
in public service and not-for-profit organizations. The primary 89082  
purpose of the center is to study issues in public service and to 89083  
guide strategies for attracting new communities into public 89084  
service occupations by bringing together a cadre of researchers, 89085  
scholars and professionals representing the public administration, 89086  
social behavioral, and education disciplines. 89087

NATIONAL GUARD SCHOLARSHIP PROGRAM 89088

The Board of Regents shall disburse funds from appropriation 89089  
item 235-599, National Guard Scholarship Program, at the direction 89090  
of the Adjutant General. 89091

\* PLEDGE OF FEES 89092

Any new pledge of fees, or new agreement for adjustment of 89093  
fees, made in the 2003-2005 biennium to secure bonds or notes of a 89094  
state-assisted institution of higher education for a project for 89095  
which bonds or notes were not outstanding on the effective date of 89096  
this section shall be effective only after approval by the Board 89097  
of Regents, unless approved in a previous biennium. 89098

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE 89099

The foregoing appropriation item 235-909, Higher Education 89100  
General Obligation Debt Service, shall be used to pay all debt 89101  
service and related financing costs at the times they are required 89102  
to be made pursuant to sections 151.01 and 151.04 of the Revised 89103  
Code during the period from July 1, 2003, to June 30, 2005. The 89104  
Office of the Sinking Fund or the Director of Budget and 89105  
Management shall effectuate the required payments by an intrastate 89106  
transfer voucher. 89107

**Section 88.12. SALES AND SERVICES** 89108

The Board of Regents is authorized to charge and accept 89109  
payment for the provision of goods and services. Such charges 89110  
shall be reasonably related to the cost of producing the goods and 89111  
services. No charges may be levied for goods or services that are 89112  
produced as part of the routine responsibilities or duties of the 89113  
Board. All revenues received by the Board of Regents shall be 89114  
deposited into Fund 456, and may be used by the Board of Regents 89115  
to pay for the costs of producing the goods and services. 89116

OHIO HIGHER EDUCATIONAL FACILITY COMMISSION SUPPORT 89117

The foregoing appropriation item 235-602, Higher Educational 89118  
Facility Commission Administration, shall be used by the Board of 89119  
Regents for operating expenses related to the Board of Regents' 89120  
support of the activities of the Ohio Higher Educational Facility 89121  
Commission. Upon the request of the chancellor, the Director of 89122  
Budget and Management shall transfer up to \$20,000 cash from Fund 89123  
461 to Fund 4E8 in each fiscal year of the biennium. 89124

PHYSICIAN LOAN REPAYMENT 89125

The foregoing appropriation item 235-604, Physician Loan 89126  
Repayment, shall be used in accordance with sections 3702.71 to 89127  
3702.81 of the Revised Code. 89128

NURSING LOAN PROGRAM 89129

The foregoing appropriation item 235-606, Nursing Loan 89130  
Program, shall be used to administer the nurse education 89131  
assistance program. Up to \$159,600 in fiscal year 2004 and 89132  
\$167,580 in fiscal year 2005 may be used for operating expenses 89133  
associated with the program. Any additional funds needed for the 89134  
administration of the program are subject to Controlling Board 89135  
approval. 89136

**Section 88.13.** SCIENCE AND TECHNOLOGY COLLABORATION 89137

The Board of Regents shall work in close collaboration with 89138  
the Department of Development and the Third Frontier Commission in 89139  
relation to appropriation items and programs listed in the 89140  
following paragraph, and other technology-related appropriations 89141  
and programs in the Department of Development and the Board of 89142  
Regents as these agencies may designate, to ensure implementation 89143  
of a coherent state strategy with respect to science and 89144  
technology. 89145

Each of the following appropriations and programs: 195-401, 89146  
Thomas Edison Program; 195-408, Coal Research Development; 89147  
195-422, Third Frontier Action Fund; 195-632, Coal Research and 89148  
Development Fund; 235-454, Research Challenge; 235-508, Air Force 89149  
Institute of Technology; 235-510, Ohio Supercomputer Center; 89150  
235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural 89151  
Research and Development Center; 235-553, Dayton Area Graduate 89152  
Studies Institute; 235-554, Computer Science Graduate Education; 89153  
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 89154  
Research and Technology Transfer Trust, shall be reviewed annually 89155  
by the Third Frontier Commission with respect to its development 89156  
of complementary relationships within a combined state science and 89157  
technology investment portfolio and its overall contribution to 89158  
the state's science and technology strategy, including the 89159

adoption of appropriately consistent criteria for: (1) the 89160  
scientific merit of activities supported by the program; (2) the 89161  
relevance of the program's activities to commercial opportunities 89162  
in the private sector; (3) the private sector's involvement in a 89163  
process that continually evaluates commercial opportunities to use 89164  
the work supported by the program; and (4) the ability of the 89165  
program and recipients of grant funding from the program to engage 89166  
in activities that are collaborative, complementary, and efficient 89167  
with respect to the expenditure of state funds. All programs 89168  
listed above shall provide annual reports to the Third Frontier 89169  
Commission discussing existing, planned, or possible 89170  
collaborations between programs and recipients of grant funding 89171  
related to technology, development, commercialization, and 89172  
supporting Ohio's economic development. The annual review by the 89173  
Third Frontier Commission shall be a comprehensive review of the 89174  
entire state science and technology program portfolio rather than 89175  
a review of individual programs. 89176

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS 89177

Notwithstanding any provision of law to the contrary, all 89178  
repayments of Research Facility Investment Fund loans shall be 89179  
made to the Bond Service Trust Fund. All Research Facility 89180  
Investment Fund loan repayments made prior to the effective date 89181  
of this section shall be transferred by the Director of Budget and 89182  
Management to the Bond Service Trust Fund within sixty days of the 89183  
effective date of this section. 89184

Campuses shall make timely repayments of Research Facility 89185  
Investment Fund loans, according to the schedule established by 89186  
the Board of Regents. In the case of late payments, the Board of 89187  
Regents may deduct from an institution's periodic subsidy 89188  
distribution an amount equal to the amount of the overdue payment 89189  
for that institution, transfer such amount to the Bond Service 89190  
Trust Fund, and credit the appropriate institution for the 89191

repayment. 89192

VETERANS' PREFERENCES 89193

The Board of Regents shall work with the Governor's Office of 89194  
Veterans' Affairs to develop specific veterans' preference 89195  
guidelines for higher education institutions. These guidelines 89196  
shall ensure that the institutions' hiring practices are in 89197  
accordance with the intent of Ohio's veterans' preference laws. 89198

**Section 88.15.** STUDY OF CO-LOCATED INSTITUTIONS 89199

The Board of Regents shall review the operation and 89200  
effectiveness of co-located university branch campuses and 89201  
technical colleges, with particular attention to improved 89202  
responsiveness to community needs and improved transfer of 89203  
coursework. The Board of Regents shall report its findings and 89204  
recommendations to the General Assembly not later than May 15, 89205  
2004. 89206

**Section 88.16.** On the effective date of this section, the 89207  
Board of Regents shall recognize the conversion of Belmont 89208  
Technical College from a technical college under Chapter 3358. of 89209  
the Revised Code to a community college under Chapter 3354. of the 89210  
Revised Code, and on and after the effective date of this section 89211  
Belmont Technical College shall be known as Belmont Community 89212  
College. 89213

**Section 89.** DRC DEPARTMENT OF REHABILITATION AND CORRECTION 89214

General Revenue Fund 89215

GRF 501-321 Institutional \$ 849,631,155 \$ 861,557,899 89216

Operations

GRF 501-403 Prisoner Compensation \$ 8,455,052 \$ 8,705,052 89217

GRF 501-405 Halfway House \$ 36,640,139 \$ 35,579,419 89218

GRF 501-406 Lease Rental Payments \$ 141,997,000 \$ 146,307,900 89219

GRF 501-407	Community Nonresidential Programs	\$ 15,161,353	\$ 15,352,814	89220
GRF 501-408	Community Misdemeanor Programs	\$ 7,942,211	\$ 8,041,489	89221
GRF 501-501	Community Residential Programs - CBCF	\$ 54,720,123	\$ 55,372,875	89222
GRF 502-321	Mental Health Services	\$ 67,052,290	\$ 68,265,662	89223
GRF 503-321	Parole and Community Operations	\$ 77,445,938	\$ 78,845,845	89224
GRF 504-321	Administrative Operations	\$ 24,533,707	\$ 24,920,848	89225
GRF 505-321	Institution Medical Services	\$ 118,406,940	\$ 120,014,320	89226
GRF 506-321	Institution Education Services	\$ 24,335,287	\$ 24,747,574	89227
GRF 507-321	Institution Recovery Services	\$ 7,018,500	\$ 7,124,516	89228
TOTAL GRF	General Revenue Fund	\$ 1,433,339,695	\$ 1,454,836,213	89229
	General Services Fund Group			89230
4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$ 1,693,129	\$ 1,758,177	89231
4D4 501-603	Prisoner Programs	\$ 20,537,291	\$ 20,967,703	89232
4L4 501-604	Transitional Control	\$ 1,348,740	\$ 1,593,794	89233
4S5 501-608	Education Services	\$ 4,452,754	\$ 4,564,072	89234
483 501-605	Property Receipts	\$ 383,894	\$ 393,491	89235
5H8 501-617	Offender Financial Responsibility	\$ 1,335,000	\$ 1,374,020	89236
5L6 501-611	Information Technology Services	\$ 3,650,712	\$ 3,741,980	89237
571 501-606	Training Academy Receipts	\$ 73,356	\$ 75,190	89238

593 501-618 Laboratory Services	\$	4,707,730	\$	4,825,423	89239
TOTAL GSF General Services Fund	\$	38,182,606	\$	39,293,850	89240
Group					
Federal Special Revenue Fund Group					89241
3S1 501-615 Truth-In-Sentencing	\$	24,604,435	\$	25,517,173	89242
Grants					
323 501-619 Federal Grants	\$	10,759,329	\$	11,300,335	89243
TOTAL FED Federal Special Revenue					89244
Fund Group	\$	35,363,764	\$	36,817,508	89245
Intragovernmental Service Fund Group					89246
148 501-602 Services and	\$	95,207,653	\$	95,207,653	89247
Agricultural					
200 501-607 Ohio Penal Industries	\$	29,748,175	\$	31,491,879	89248
TOTAL ISF Intragovernmental					89249
Service Fund Group	\$	124,955,828	\$	126,699,532	89250
TOTAL ALL BUDGET FUND GROUPS	\$	1,631,841,893	\$	1,657,647,103	89251

COMMUNITY CORRECTIONS TRANSFERS 89252

With the approval of the Controlling Board, the Department of 89253  
 Rehabilitation and Correction shall transfer in FY 2005 from the 89254  
 unexpended, unobligated GRF appropriations made to the Department 89255  
 for fiscal years 2004 and 2005 at least \$3,500,000 in 89256  
 appropriation authority to appropriation item 501-405, Halfway 89257  
 House, and at least \$1,000,000 in appropriation authority to 89258  
 appropriation item 501-501, Community Residential Programs - CBCF. 89259

ZERO-BASED BUDGETING 89260

The Director of Budget and Management shall prepare a full 89261  
 zero-based budget for the biennium ending June 30, 2007, for the 89262  
 Department of Rehabilitation and Correction. The Director shall 89263  
 offer the Department substantial technical assistance throughout 89264  
 the process of preparing its zero-based budget. The Department 89265  
 shall prepare a full zero-based budget in such manner and 89266

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	
GRF 415-402	Independent Living	\$	12,040	\$	12,280	

Council

GRF 415-403	Mental Health Services	\$	717,221	\$	717,221	89296
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816	89297
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912	89298
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531	89299
GRF 415-431	Office for People with Brain Injury	\$	222,364	\$	226,012	89300
GRF 415-506	Services for People with Disabilities	\$	11,830,306	\$	12,185,215	89301
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000	89302
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377	89303
GRF 415-520	Independent Living Services	\$	50,000	\$	50,000	89304
TOTAL GRF	General Revenue Fund	\$	23,764,478	\$	24,296,832	89305
	General Services Fund Group					89306
4W5 415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040	89307
467 415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082	89308
TOTAL GSF	General Services Fund Group	\$	19,601,088	\$	20,189,122	89309
	Federal Special Revenue Fund Group					89310
3L1 415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032	89311
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	89312
3L1 415-607	Social Security Administration Cost	\$	174,119	\$	175,860	89313

3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158	89315
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324	89316
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917	89317
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687	89318
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546	89319
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484	89320
317	415-620	Disability Determination	\$	73,120,329	\$	76,776,343	89321
379	415-616	Federal-Vocational Rehabilitation	\$	117,955,833	\$	125,520,457	89322
TOTAL FED Federal Special							89323
Revenue Fund Group			\$	208,961,371	\$	220,187,296	89324
State Special Revenue Fund Group							89325
4L1	415-619	Services for Rehabilitation	\$	3,623,845	\$	3,176,070	89326
468	415-618	Third Party Funding	\$	1,692,991	\$	2,392,991	89327
TOTAL SSR State Special							89328
Revenue Fund Group			\$	5,316,836	\$	5,569,061	89329
TOTAL ALL BUDGET FUND GROUPS			\$	257,643,773	\$	270,242,311	89330
MR/DD SERVICES							89331
The foregoing appropriation item 415-404, MR/DD Services,							89332

shall be used as state matching funds to provide vocational 89333  
rehabilitation services to mutually eligible clients between the 89334  
Rehabilitation Services Commission and the Department of Mental 89335  
Retardation and Developmental Disabilities. The Rehabilitation 89336  
Services Commission shall report to the Department of Mental 89337  
Retardation and Developmental Disabilities, as outlined in an 89338  
interagency agreement, on the number and status of mutually 89339  
eligible clients and the status of the funds and expenditures for 89340  
these clients. 89341

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 89342

The foregoing appropriation item 415-405, Vocational 89343  
Rehabilitation/Job and Family Services, shall be used as state 89344  
matching funds to provide vocational rehabilitation services to 89345  
mutually eligible clients between the Rehabilitation Services 89346  
Commission and the Department of Job and Family Services. The 89347  
Rehabilitation Services Commission shall report to the Department 89348  
of Job and Family Services, as outlined in an interagency 89349  
agreement, on the number and status of mutually eligible clients 89350  
and the status of the funds and expenditures for these clients. 89351

ASSISTIVE TECHNOLOGY 89352

The foregoing appropriation item 415-406, Assistive 89353  
Technology, shall be provided to Assistive Technology of Ohio and 89354  
shall be used only to provide grants under that program. No amount 89355  
of the appropriation may be used for administrative costs. 89356

OFFICE FOR PEOPLE WITH BRAIN INJURY 89357

Of the foregoing appropriation item 415-431, Office for 89358  
People with Brain Injury, \$50,000 in each fiscal year shall be 89359  
used for the state match for a federal grant awarded through the 89360  
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 89361  
in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be 89362  
provided to the Brain Injury Trust Fund. The remaining 89363

appropriation in this item shall be used to plan and coordinate 89364  
head-injury-related services provided by state agencies and other 89365  
government or private entities, to assess the needs for such 89366  
services, and to set priorities in this area. 89367

SERVICES FOR THE ELDERLY 89368

The foregoing appropriation item 415-509, Services for the 89369  
Elderly, shall be used as matching funds for vocational 89370  
rehabilitation services for eligible elderly citizens with a 89371  
disability. 89372

SOCIAL SECURITY REIMBURSEMENT FUNDS 89373

Reimbursement funds received from the Social Security 89374  
Administration, United States Department of Health and Human 89375  
Services, for the costs of providing services and training to 89376  
return disability recipients to gainful employment, shall be used 89377  
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 89378

(A) Appropriation item 415-601, Social Security Personal Care 89379  
Assistance, to provide personal care services in accordance with 89380  
section 3304.41 of the Revised Code; 89381

(B) Appropriation item 415-605, Social Security Community 89382  
Centers for the Deaf, to provide grants to community centers for 89383  
the deaf in Ohio for services to individuals with hearing 89384  
impairments; 89385

(C) Appropriation item 415-607, Social Security 89386  
Administration Cost, to provide administrative services needed to 89387  
administer the Social Security reimbursement program; 89388

(D) Appropriation item 415-608, Social Security Special 89389  
Programs/Assistance, to provide vocational rehabilitation services 89390  
to individuals with severe disabilities, who are Social Security 89391  
beneficiaries, to achieve competitive employment. This item also 89392  
includes funds to assist the Personal Care Assistance, Community 89393

Centers for the Deaf, and Independent Living Programs to pay their 89394  
share of indirect costs as mandated by federal OMB Circular A-87. 89395

(E) Appropriation item 415-610, Social Security Vocational 89396  
Rehabilitation, to provide vocational rehabilitation services to 89397  
older blind individuals with severe disabilities to achieve a 89398  
noncompetitive employment goal. 89399

ADMINISTRATIVE EXPENSES 89400

The foregoing appropriation item 415-606, Administrative 89401  
Expenses, shall be used to support the administrative functions of 89402  
the commission related to the provision of vocational 89403  
rehabilitation, disability determination services, and ancillary 89404  
programs. 89405

INDEPENDENT LIVING COUNCIL 89406

The foregoing appropriation item 415-402, Independent Living 89407  
Council, shall be used to fund the operations of the State 89408  
Independent Living Council. 89409

MENTAL HEALTH SERVICES 89410

The foregoing appropriation item 415-403, Mental Health 89411  
Services, shall be used for the provision of vocational 89412  
rehabilitation services to mutually eligible consumers of the 89413  
Rehabilitation Services Commission and the Department of Mental 89414  
Health. 89415

The Department of Mental Health shall receive a quarterly 89416  
report from the Rehabilitation Services Commission stating the 89417  
numbers served, numbers placed in employment, average hourly wage, 89418  
and average hours worked. 89419

INDEPENDENT LIVING SERVICES 89420

The foregoing appropriation items 415-520, Independent Living 89421  
Services, and 415-612, Federal-Independent Living Centers or 89422  
Services, shall be used to support state independent living 89423

centers or independent living services pursuant to Title VII of 89424  
the Independent Living Services and Centers for Independent Living 89425  
of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 89426  
U.S.C. 796d. 89427

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 89428

The foregoing appropriation item 415-617, Independent 89429  
Living/Vocational Rehabilitation Programs, shall be used to 89430  
support vocational rehabilitation programs, including, but not 89431  
limited to, Projects with Industry, Training Grants, and Brain 89432  
Injury Grants. 89433

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 89434

During fiscal years 2004 and 2005, the Rehabilitation 89435  
Services Commission may conduct a pilot program to provide 89436  
vocational rehabilitation and related services to entities, 89437  
employers, or individuals that are not eligible for state or 89438  
federally supported services through the commission. The 89439  
commission shall propose fees to be collected from the entities, 89440  
employers, or individuals served by the pilot program for the 89441  
approval of the Controlling Board to support the costs for 89442  
vocational rehabilitation and related services provided under the 89443  
pilot program. Fee revenues collected under the program shall be 89444  
credited to Fund 468 (Third Party Funding). Prior to the 89445  
commencement of services through the pilot program, the 89446  
Rehabilitation Services Commission shall develop a program plan to 89447  
be submitted to the Controlling Board. Any plan revisions or 89448  
updates shall be reported to the Controlling Board. During the 89449  
implementation of the pilot program, the Rehabilitation Services 89450  
Commission shall investigate and determine the possibility of 89451  
utilizing this source of revenue to match federal funds. The 89452  
Rehabilitation Services Commission shall evaluate the progress of 89453  
the pilot program and issue a report of its findings to the 89454  
Governor by December 15, 2005. The report shall include a 89455

recommendation to either continue or discontinue the pilot program 89456  
in the next biennium. 89457

**Section 91. RCB RESPIRATORY CARE BOARD 89458**

General Services Fund Group 89459

4K9 872-609 Operating Expenses \$ 318,499 \$ 315,481 89460

TOTAL GSF General Services 89461

Fund Group \$ 318,499 \$ 315,481 89462

TOTAL ALL BUDGET FUND GROUPS \$ 318,499 \$ 315,481 89463

**Section 92. REVENUE DISTRIBUTION FUNDS 89465**

Volunteer Firefighters' Dependents Fund 89466

085 768-900 Volunteer \$ 200,000 \$ 200,000 89467

Firefighters'

Dependents Fund

TOTAL 085 Volunteer Firefighters' 89468

Dependents Fund \$ 200,000 \$ 200,000 89469

Agency Fund Group 89470

062 110-900 Resort Area Excise Tax \$ 500,000 \$ 500,000 89471

063 110-900 Permissive Tax \$ 1,397,512,400 \$ 1,439,437,700 89472

Distribution

067 110-900 School District Income \$ 154,836,700 \$ 161,030,200 89473

Tax Fund

4P8 001-698 Cash Management \$ 2,500,000 \$ 2,500,000 89474

Improvement Fund

608 001-699 Investment Earnings \$ 174,300,000 \$ 181,300,000 89475

TOTAL AGY Agency Fund Group \$ 1,729,649,100 \$ 1,784,767,900 89476

Holding Account Redistribution 89477

R45 110-617 International Fuel Tax \$ 36,400,000 \$ 37,200,000 89478

Distribution

TOTAL R45 Holding Account \$ 36,400,000 \$ 37,200,000 89479

Redistribution Fund

Revenue Distribution Fund Group				89480	
049 038-900 Indigent Drivers	\$	1,850,000	\$	1,850,000	89481
Alcohol Treatment					
050 762-900 International	\$	60,000,000	\$	60,000,000	89482
Registration Plan					
Distribution					
051 762-901 Auto Registration	\$	475,000,000	\$	486,875,000	89483
Distribution					
054 110-900 Local Government	\$	75,000,000	\$	75,000,000	89484
Property Tax					
Replacement					
060 110-900 Gasoline Excise Tax	\$	113,344,700	\$	115,611,600	89485
Fund					
064 110-900 Local Government	\$	98,500,000	\$	98,500,000	89486
Revenue Assistance					
065 110-900 Library/Local	\$	475,000,000	\$	475,000,000	89487
Government Support					
Fund					
066 800-900 Undivided Liquor	\$	13,500,000	\$	13,500,000	89488
Permit Fund					
068 110-900 State/Local Government	\$	227,607,000	\$	232,159,100	89489
Highway Distribution					
Fund					
069 110-900 Local Government Fund	\$	705,000,000	\$	705,000,000	89490
082 110-900 Horse Racing Tax	\$	130,000	\$	130,000	89491
083 700-900 Ohio Fairs Fund	\$	3,150,000	\$	3,150,000	89492
TOTAL RDF Revenue Distribution					89493
Fund Group	\$	2,248,081,700	\$	2,266,775,700	89494
TOTAL ALL BUDGET FUND GROUPS	\$	4,014,330,800	\$	4,088,943,600	89495
ADDITIONAL APPROPRIATIONS					89496
Appropriation items in this section are to be used for the					89497
purpose of administering and distributing the designated revenue					89498

distributions fund according to the Revised Code. If it is 89499  
determined that additional appropriations are necessary, such 89500  
amounts are appropriated. 89501

**Section 93. SAN BOARD OF SANITARIAN REGISTRATION 89502**

General Services Fund Group 89503  
4K9 893-609 Operating Expenses \$ 124,892 \$ 125,612 89504  
TOTAL GSF General Services 89505  
Fund Group \$ 124,892 \$ 125,612 89506  
TOTAL ALL BUDGET FUND GROUPS \$ 124,892 \$ 125,612 89507

**Section 94. OSB OHIO STATE SCHOOL FOR THE BLIND 89509**

General Revenue Fund 89510  
GRF 226-100 Personal Services \$ 6,287,483 \$ 6,456,616 89511  
GRF 226-200 Maintenance \$ 685,256 \$ 685,256 89512  
GRF 226-300 Equipment \$ 121,355 \$ 121,355 89513  
TOTAL GRF General Revenue Fund \$ 7,094,094 \$ 7,263,227 89514  
General Services Fund Group 89515  
4H8 226-602 Education Reform \$ 61,476 \$ 61,476 89516  
Grants  
TOTAL GSF General Services 89517  
Fund Group \$ 61,476 \$ 61,476 89518  
Federal Special Revenue Fund Group 89519  
3P5 226-643 Medicaid Professional \$ 143,600 \$ 143,600 89520  
Services Reimbursement  
310 226-626 Coordinating Unit \$ 1,390,000 \$ 1,384,000 89521  
TOTAL FED Federal Special 89522  
Revenue Fund Group \$ 1,533,600 \$ 1,527,600 89523  
State Special Revenue Fund Group 89524  
4M5 226-601 Work Study & \$ 42,919 \$ 42,919 89525  
Technology Investments  
TOTAL SSR State Special Revenue 89526

Fund Group	\$	42,919	\$	42,919	89527
TOTAL ALL BUDGET FUND GROUPS		8,732,089		8,895,222	89528

**Section 95. OSD OHIO STATE SCHOOL FOR THE DEAF** 89530

General Revenue Fund 89531

GRF 221-100 Personal Services	\$	8,071,660	\$	8,391,704	89532
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GRF 221-200 Maintenance	\$	1,012,561	\$	1,032,813	89533
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GRF 221-300 Equipment	\$	269,377	\$	269,377	89534
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TOTAL GRF General Revenue Fund	\$	9,353,598	\$	9,693,894	89535
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General Services Fund Group 89536

4M1 221-602 Education Reform	\$	70,701	\$	70,701	89537
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Grants

TOTAL GSF General Services 89538

Fund Group	\$	70,701	\$	70,701	89539
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Federal Special Revenue Fund Group 89540

3R0 221-684 Medicaid Professional	\$	111,377	\$	111,377	89541
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Services Reimbursement 89542

311 221-625 Coordinating Unit	\$	949,899	\$	974,649	89543
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3Y1 221-686 Early Childhood Grant	\$	248,235	\$	262,275	89544
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TOTAL FED Federal Special 89545

Revenue Fund Group	\$	1,309,511	\$	1,348,301	89546
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State Special Revenue Fund Group 89547

4M0 221-601 Educational Program	\$	33,188	\$	33,188	89548
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Expenses 89549

5H6 221-609 Even Start Fees &	\$	98,500	\$	98,500	89550
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Gifts

TOTAL SSR State Special Revenue 89551

Fund Group	\$	131,688	\$	131,688	89552
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TOTAL ALL BUDGET FUND GROUPS		10,865,498		11,244,584	89553
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**Section 96. SFC SCHOOL FACILITIES COMMISSION** 89555

General Revenue Fund 89556

GRF 230-428	Lease Rental Payments	\$	31,776,500	\$	31,704,700	89557
GRF 230-908	Common Schools General	\$	106,322,300	\$	145,989,300	89558
	Obligation Debt					
	Service					
TOTAL GRF	General Revenue Fund	\$	138,098,800	\$	177,694,000	89559
	Federal Special Revenue Fund Group					89560
3X9 230-601	Federal School	\$	28,214,058	\$	28,214,058	89561
	Facilities Grant					
TOTAL FED	Federal Special Revenue	\$	28,214,058	\$	28,214,058	89562
	Fund Group					
	State Special Revenue Fund Group					89563
5E3 230-644	Operating Expenses	\$	7,009,766	\$	7,009,766	89564
TOTAL SSR	State Special Revenue					89565
	Fund Group	\$	7,009,766	\$	7,009,766	89566
TOTAL ALL BUDGET FUND GROUPS		\$	173,322,624	\$	212,917,824	89567

**Section 96.01. LEASE RENTAL PAYMENTS** 89569

The foregoing appropriation item 230-428, Lease Rental 89570  
 Payments, shall be used to meet all payments at the times they are 89571  
 required to be made during the period from July 1, 2003, to June 89572  
 30, 2005, by the School Facilities Commission pursuant to leases 89573  
 and agreements made under section 3318.26 of the Revised Code, but 89574  
 limited to the aggregate amount of \$63,481,200. Nothing in this 89575  
 act shall be deemed to contravene the obligation of the state to 89576  
 pay, without necessity for further appropriation, from the sources 89577  
 pledged thereto, the bond service charges on obligations issued 89578  
 pursuant to Chapter 3318. of the Revised Code. 89579

**COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE** 89580

The foregoing appropriation item 230-908, Common Schools 89581  
 General Obligation Debt Service, shall be used to pay all debt 89582  
 service and related financing costs at the times they are required 89583

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 89615  
accordance with section 3318.05 of the Revised Code. The Executive 89616  
Director of the Ohio School Facilities Commission shall certify 89617  
the amounts of these canceled encumbrances to the Director of 89618  
Budget and Management on a quarterly basis. The amounts of the 89619  
canceled encumbrances are appropriated. 89620

**Section 96.02. COMMUNITY SCHOOL CLASSROOM FACILITIES LOAN 89621**  
GUARANTEE 89622

The unencumbered and unallotted balances as of June 30, 2003, 89623  
in appropriation item 230-602, Community School Loan Guarantee, 89624  
are hereby reappropriated in fiscal year 2004 to support loan 89625  
guarantees to community schools under section 3318.50 of the 89626  
Revised Code. The unencumbered an unallotted balances of the 89627  
appropriation at the end of fiscal year 2004 are hereby 89628  
reappropriated in fiscal year 2005 to support loan guarantees to 89629  
community schools under section 3318.50 of the Revised Code. 89630

**Section 96.02a. EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL 89631**  
FACILITIES 89632

Notwithstanding any other provision of law to the contrary, 89633  
the School Facilities Commission may provide assistance under the 89634  
Exceptional Needs School Facilities Program established in section 89635  
3318.37 of the Revised Code to any school district, and not 89636  
exclusively to a school district in the lowest fifty per cent of 89637  
adjusted valuation per pupil on the current ranking of school 89638  
districts established pursuant to section 3317.02 of the Revised 89639  
Code, for the purpose of the relocation or replacement of school 89640  
facilities required as a result of extreme environmental 89641  
contamination. 89642

The School Facilities Commission shall contract with an 89643  
independent environmental consultant to conduct a study and to 89644

report to the commission as to the seriousness of the 89645  
environmental contamination, whether the contamination violates 89646  
applicable state and federal standards, and whether the facilities 89647  
are no longer suitable for use as school facilities. The 89648  
commission then shall make a determination regarding funding for 89649  
the relocation or replacement of the school facilities. If the 89650  
federal government or other public or private entity provides 89651  
funds for restitution of costs incurred by the state or school 89652  
district in the relocation or replacement of the school 89653  
facilities, the school district shall use such funds in excess of 89654  
the school district's share to refund the state for the state's 89655  
contribution to the environmental contamination portion of the 89656  
project. The school district may apply an amount of such 89657  
restitution funds up to an amount equal to the school district's 89658  
portion of the project, as defined by the commission, toward 89659  
paying its portion of that project to reduce the amount of bonds 89660  
the school district otherwise must issue to receive state 89661  
assistance under sections 3318.01 to 3318.20 of the Revised Code. 89662

**Section 96.03.** (A) The Ohio School Facilities Commission may 89663  
commit up to thirty-five million dollars to the Canton City School 89664  
District for construction of a facility described in this section, 89665  
in lieu of a high school that would otherwise be authorized under 89666  
Chapter 3318. of the Revised Code. The commission shall not commit 89667  
funds under this section unless all of the following conditions 89668  
are met: 89669

(1) The district has entered into a cooperative agreement 89670  
with a state-assisted technical college. 89671

(2) The district has received an irrevocable commitment of 89672  
additional funding from nonpublic sources. 89673

(3) The facility is intended to serve both secondary and 89674  
postsecondary instructional purposes. 89675

(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	89706
GRF 228-539	Education Technology	\$	6,989,315	\$	6,989,315	89707
Total GRF General Revenue Fund		\$	20,642,354	\$	20,642,354	89708
General Services Fund Group						89709
5D4 228-640	Conference/Special Purpose Expenses	\$	1,350,000	\$	1,350,000	89710
TOTAL GSF General Services Fund Group		\$	1,350,000	\$	1,350,000	89711 89712
Federal Special Revenue Fund Group						89713
3X8 228-604	Individuals With Disabilities Education Act	\$	1,500,000	\$	1,500,000	89714
TOTAL FED Federal Special Revenue Fund Group		\$	1,500,000	\$	1,500,000	89715 89716
State Special Revenue Fund Group						89717
4W9 228-630	Ohio SchoolNet Telecommunity Fund	\$	400,000	\$	400,000	89718
4X1 228-634	Distance Learning	\$	1,750,000	\$	1,750,000	89719
5T3 228-605	Gates Foundation Grants	\$	1,194,908	\$	1,194,908	89720
TOTAL SSR State Special Revenue Fund Group		\$	3,344,908	\$	3,344,908	89721 89722
TOTAL ALL BUDGET FUND GROUPS			26,837,262		26,837,262	89723

**Section 97.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT** 89725  
DEVELOPMENT 89726

The foregoing appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission to make grants or provide services to 89727  
89728  
89729

qualifying schools, including the State School for the Blind and 89730  
the Ohio School for the Deaf, for the provision of hardware, 89731  
software, telecommunications services, and staff development to 89732  
support educational uses of technology in the classroom. 89733

The Ohio SchoolNet Commission shall consider the professional 89734  
development needs associated with the OhioReads Program when 89735  
making funding allocations and program decisions. 89736

Of the foregoing appropriation \$1,260,000 in each fiscal year 89737  
shall be used by the Ohio Educational Telecommunications Network 89738  
Commission, with the advice of the Ohio SchoolNet Commission, to 89739  
make grants for research, development and production of 89740  
interactive instructional programming series and teleconferences 89741  
to support the SchoolNet Commission. Up to \$55,000 of this amount 89742  
shall be used in each fiscal year to provide for the 89743  
administration of these activities by the Ohio Educational 89744  
Telecommunications Network Commission. The programming shall be 89745  
targeted to the needs of the poorest two hundred school districts 89746  
as determined by the district's adjusted valuation per pupil as 89747  
defined in section 3317.0213 of the Revised Code. 89748

Of the foregoing appropriation item 228-406, Technical and 89749  
Instructional Professional Development, \$818,322 in each fiscal 89750  
year shall be used by the INFOhio Network, with the advice of the 89751  
Ohio SchoolNet Commission, to support the provision of electronic 89752  
resources to all public schools with preference given to 89753  
elementary schools. Consideration shall be given by the Commission 89754  
to coordinating the allocation of these moneys with the efforts of 89755  
OhioLINK and the Ohio Public Information Network. 89756

Of the foregoing appropriation item 228-406, Technical and 89757  
Instructional Professional Development, \$300,000 in each fiscal 89758  
year shall be used by the JASON project, with the advice of the 89759  
Ohio SchoolNet Commission, to provide statewide access and a 75 89760  
per cent subsidy for statewide licensing of JASON content for 89761

90,000 middle school students statewide, and professional 89762  
development for teachers participating in the program. 89763

The remaining appropriation allocated in appropriation item 89764  
228-406, Technical and Instructional Professional Development, 89765  
shall be used by the Ohio SchoolNet Commission for professional 89766  
development for teachers and administrators for the use of 89767  
educational technology. The commission may make grants to provide 89768  
technical assistance and professional development on the use of 89769  
educational technology to school districts. 89770

Eligible recipients of grants include regional training 89771  
centers, county offices of education, data collection sites, 89772  
instructional technology centers, institutions of higher 89773  
education, public television stations, special education resource 89774  
centers, area media centers, or other nonprofit educational 89775  
organizations. Services provided through these grants may include 89776  
use of private entities subcontracting through the grant 89777  
recipient. 89778

Grants shall be made to entities on a contractual basis with 89779  
the Ohio SchoolNet Commission. Contracts shall include provisions 89780  
that demonstrate how services will benefit technology use in the 89781  
schools, and in particular will support Ohio SchoolNet efforts to 89782  
support technology in the schools. Contracts shall specify the 89783  
scope of assistance being offered and the potential number of 89784  
professionals who will be served. Contracting entities may be 89785  
awarded more than one grant at a time. 89786

Grants shall be awarded in a manner consistent with the goals 89787  
of Ohio SchoolNet. Special emphasis in the award of grants shall 89788  
be placed on collaborative efforts among service providers. 89789

Application for grants from this appropriation in 89790  
appropriation item 228-406, Technical and Instructional 89791  
Professional Development, shall be consistent with a school 89792

district's technology plan that shall meet the minimum 89793  
specifications for school district technology plans as prescribed 89794  
by the Ohio SchoolNet Commission. Funds allocated through these 89795  
grants may be combined with funds received through other state or 89796  
federal grants for technology so long as the school district's 89797  
technology plan specifies the use of these funds. 89798

EDUCATION TECHNOLOGY 89799

The foregoing appropriation item 228-539, Education 89800  
Technology, shall be used to provide funding to suppliers of 89801  
information services to school districts for the provision of 89802  
hardware, software, and staff development in support of 89803  
educational uses of technology in the classroom as prescribed by 89804  
the State Plan for Technology pursuant to section 3301.07 of the 89805  
Revised Code, and to support assistive technology for children and 89806  
youth with disabilities. 89807

Of the foregoing appropriation item 228-539, Education 89808  
Technology, up to \$1,946,000 in each fiscal year shall be used by 89809  
the Ohio SchoolNet Commission to link all public K-12 classrooms 89810  
to each other and the Internet, and to provide access to voice, 89811  
video, and data educational resources for students and teachers 89812  
through the OneNet Ohio Program. 89813

Up to \$4,403,778 in each fiscal year shall be used by the 89814  
Ohio SchoolNet Commission to contract with instructional 89815  
television, and \$639,537 in each fiscal year shall be used by the 89816  
commission to contract with education media centers to provide 89817  
Ohio schools with instructional resources and services. 89818

Resources may include, but not be limited to, the following: 89819  
pre-recorded video materials (including videotape, laser discs, 89820  
and CD-ROM discs); computer software for student use or student 89821  
access to electronic communication, databases, spreadsheet, and 89822  
word processing capability; live student courses or courses 89823

delivered electronically; automated media systems; and 89824  
instructional and professional development materials for teachers. 89825  
The commission shall cooperate with education technology agencies 89826  
in the acquisition, development, and delivery of such educational 89827  
resources to ensure high-quality and educational soundness at the 89828  
lowest possible cost. Delivery of such resources may utilize a 89829  
variety of technologies, with preference given to a high-speed 89830  
integrated information network that can transport video, voice, 89831  
data, and graphics simultaneously. 89832

Services shall include presentations and technical assistance 89833  
that will help students and teachers integrate educational 89834  
materials that support curriculum objectives, match specific 89835  
learning styles, and are appropriate for individual interests and 89836  
ability levels. 89837

Such instructional resources and services shall be made 89838  
available for purchase by chartered nonpublic schools or by public 89839  
school districts for the benefit of pupils attending chartered 89840  
nonpublic schools. 89841

TELECOMMUNITY 89842

The foregoing appropriation item 228-630, Ohio SchoolNet 89843  
Telecommunity Fund, shall be distributed by the Ohio SchoolNet 89844  
Commission on a grant basis to eligible school districts to 89845  
establish "distance learning" through interactive video 89846  
technologies in the school district. Per agreements with eight 89847  
Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of 89848  
Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone 89849  
Company, Orwell Telephone Company, Sprint North Central Telephone, 89850  
VERIZON, and Western Reserve Telephone Company, school districts 89851  
are eligible for funds if they are within one of the listed 89852  
telephone company service areas. Funds to administer the program 89853  
shall be expended by the commission up to the amount specified in 89854  
agreements with the listed telephone companies. 89855

Within 30 days after the effective date of this section, the 89856  
Director of Budget and Management shall transfer to Fund 4W9 in 89857  
the State Special Revenue Fund Group any investment earnings from 89858  
moneys paid to the Ohio SchoolNet Commission by any telephone 89859  
company as part of any settlement agreement between the listed 89860  
companies and the Public Utilities Commission in fiscal years 1996 89861  
and beyond. 89862

DISTANCE LEARNING 89863

Appropriation item 228-634, Distance Learning, shall be 89864  
distributed by the Ohio SchoolNet Commission on a grant basis to 89865  
eligible school districts to establish "distance learning" in the 89866  
school district. Per the agreement with Ameritech, school 89867  
districts are eligible for funds if they are within an Ameritech 89868  
service area. Funds to administer the program shall be expended by 89869  
the commission up to the amount specified in the agreement with 89870  
Ameritech. 89871

Within thirty days after the effective date of this section, 89872  
the Director of Budget and Management shall transfer to fund 4X1 89873  
in the State Special Revenue Fund Group any investment earnings 89874  
from moneys paid to the office or to the SchoolNet Commission by 89875  
any telephone company as part of a settlement agreement between 89876  
the company and the Public Utilities Commission in fiscal year 89877  
1995. 89878

GATES FOUNDATION GRANTS 89879

The foregoing appropriation item 228-605, Gates Foundation 89880  
Grants, shall be used by the Ohio SchoolNet Commission to provide 89881  
professional development to school district principals, 89882  
superintendents, and other administrative staff for the use of 89883  
education technology. The appropriation is made possible through a 89884  
grant from the Bill and Melinda Gates foundation. 89885

<b>Section 98. SOS SECRETARY OF STATE</b>				89886
General Revenue Fund				89887
GRF 050-321	Operating Expenses	\$ 2,750,000	\$ 2,750,000	89888
GRF 050-403	Election Statistics	\$ 110,570	\$ 110,570	89889
GRF 050-407	Pollworkers Training	\$ 295,742	\$ 295,742	89890
GRF 050-409	Litigation	\$ 4,949	\$ 4,949	89891
Expenditures				
TOTAL GRF	General Revenue Fund	\$ 3,161,261	\$ 3,161,261	89892
General Services Fund Group				89893
4S8 050-610	Board of Voting	\$ 7,200	\$ 7,200	89894
Machine Examiners				
412 050-609	Notary Commission	\$ 178,124	\$ 185,249	89895
413 050-601	Information Systems	\$ 163,418	\$ 169,955	89896
414 050-602	Citizen Education Fund	\$ 72,800	\$ 75,712	89897
TOTAL General Services	Fund Group	\$ 421,542	\$ 438,116	89898
Federal Special Revenue Fund Group				89899
3X4 050-612	Ohio Cntr/Law Related	\$ 41,000	\$ 41,000	89900
Educ Grant				
TOTAL FED	Federal Special Revenue			89901
Fund Group		\$ 41,000	\$ 41,000	89902
State Special Revenue Fund Group				89903
5N9 050-607	Technology	\$ 124,582	\$ 129,565	89904
Improvements				
599 050-603	Business Services	\$ 13,889,462	\$ 14,241,966	89905
Operating Expenses				
TOTAL SSR	State Special Revenue			89906
Fund Group		\$ 14,014,044	\$ 14,371,531	89907
Holding Account Redistribution Fund Group				89908
R01 050-605	Uniform Commercial	\$ 65,000	\$ 65,000	89909
Code Refunds				

R02 050-606 Corporate/Business	\$	100,000	\$	100,000	89910
Filing Refunds					
TOTAL 090 Holding Account					89911
Redistribution Fund Group	\$	165,000	\$	165,000	89912
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$	18,176,908	89913
BOARD OF VOTING MACHINE EXAMINERS					89914
The foregoing appropriation item 050-610, Board of Voting					89915
Machine Examiners, shall be used to pay for the services and					89916
expenses of the members of the Board of Voting Machine Examiners,					89917
and for other expenses that are authorized to be paid from the					89918
Board of Voting Machine Examiners Fund, which is created in					89919
section 3506.05 of the Revised Code. Moneys not used shall be					89920
returned to the person or entity submitting the equipment for					89921
examination. If it is determined that additional appropriations					89922
are necessary, such amounts are appropriated.					89923
HOLDING ACCOUNT REDISTRIBUTION GROUP					89924
The foregoing appropriation items 050-605 and 050-606,					89925
Holding Account Redistribution Fund Group, shall be used to hold					89926
revenues until they are directed to the appropriate accounts or					89927
until they are refunded. If it is determined that additional					89928
appropriations are necessary, such amounts are appropriated.					89929
<b>Section 99. SEN THE OHIO SENATE</b>					89930
General Revenue Fund					89931
GRF 020-321 Operating Expenses	\$	10,887,655	\$	11,432,037	89932
TOTAL GRF General Revenue Fund	\$	10,887,655	\$	11,432,037	89933
General Services Fund Group					89934
102 020-602 Senate Reimbursement	\$	422,881	\$	444,025	89935
409 020-601 Miscellaneous Sales	\$	32,529	\$	34,155	89936
TOTAL GSF General Services					89937
Fund Group	\$	455,410	\$	478,180	89938

TOTAL ALL BUDGET FUND GROUPS	\$	11,343,065	\$	11,910,217	89939
 <b>Section 100. CSF COMMISSIONERS OF THE SINKING FUND</b>					89941
Debt Service Fund Group					89942
071 155-901 Highway Obligations	\$	35,536,300	\$	10,450,000	89943
Bond Retirement Fund					
072 155-902 Highway Capital	\$	153,559,600	\$	173,238,200	89944
Improvements Bond					
Retirement Fund					
073 155-903 Natural Resources Bond	\$	23,808,300	\$	26,914,300	89945
Retirement					
074 155-904 Conservation Projects	\$	9,743,500	\$	11,235,700	89946
Bond Service Fund					
076 155-906 Coal Research and	\$	7,231,200	\$	9,185,100	89947
Development Bond					
Retirement Fund					
077 155-907 State Capital	\$	156,974,400	\$	152,069,700	89948
Improvements Bond					
Retirement Fund					
078 155-908 Common Schools Bond	\$	106,322,300	\$	145,989,300	89949
Retirement Fund					
079 155-909 Higher Education Bond	\$	97,668,000	\$	130,967,600	89950
Retirement Fund					
TOTAL DSF Debt Service Fund Group	\$	590,843,600	\$	660,049,900	89951
TOTAL ALL BUDGET FUND GROUPS	\$	590,843,600	\$	660,049,900	89952
 ADDITIONAL APPROPRIATIONS					89953
Appropriation items in this section are for the purpose of					89954
paying debt service and financing costs on bonds or notes of the					89955
state issued pursuant to the Ohio Constitution and acts of the					89956
General Assembly. If it is determined that additional					89957
appropriations are necessary, such amounts are appropriated.					89958

<b>Section 101.</b>	SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &			89959
	AUDIOLOGY			89960
	General Services Fund Group			89961
4K9 886-609	Operating Expenses	\$ 390,966	\$ 403,554	89962
	TOTAL GSF General Services			89963
	Fund Group	\$ 390,966	\$ 403,554	89964
	TOTAL ALL BUDGET FUND GROUPS	\$ 390,966	\$ 403,554	89965
<b>Section 102.</b>	BTA BOARD OF TAX APPEALS			89967
	General Revenue Fund			89968
GRF 116-321	Operating Expenses	\$ 2,171,760	\$ 2,171,760	89969
	TOTAL GRF General Revenue Fund	\$ 2,171,760	\$ 2,171,760	89970
	TOTAL ALL BUDGET FUND GROUPS	\$ 2,171,760	\$ 2,171,760	89971
<b>Section 103.</b>	TAX DEPARTMENT OF TAXATION			89973
	General Revenue Fund			89974
GRF 110-321	Operating Expenses	\$ 92,501,007	\$ 94,267,788	89975
GRF 110-412	Child Support	\$ 74,215	\$ 74,215	89976
	Administration			
GRF 110-901	Property Tax	\$ 434,650,000	\$ 462,640,000	89977
	Allocation - Taxation			
GRF 110-906	Tangible Tax Exemption	\$ 26,590,000	\$ 25,090,000	89978
	- Taxation			
	TOTAL GRF General Revenue Fund	\$ 553,815,222	\$ 582,072,003	89979
	Agency Fund Group			89980
095 110-901	Municipal Income Tax	\$ 12,000,000	\$ 12,000,000	89981
425 110-635	Tax Refunds	\$ 1,296,756,200	\$ 1,337,119,600	89982
	TOTAL AGY Agency Fund Group	\$ 1,308,756,200	\$ 1,349,119,600	89983
	General Services Fund Group			89984
433 110-602	Tape File Account	\$ 96,165	\$ 96,165	89985
	TOTAL GSF General Services			89986

Fund Group	\$	96,165	\$	96,165	89987
Federal Special Revenue Fund Group					89988
3J6 110-601 Motor Fuel Compliance	\$	33,300	\$	25,000	89989
TOTAL FED Federal Special Revenue					89990
Fund Group	\$	33,300	\$	25,000	89991
State Special Revenue Fund Group					89992
4C6 110-616 International	\$	706,855	\$	706,855	89993
Registration Plan					
4R6 110-610 Tire Tax	\$	65,000	\$	65,000	89994
Administration					
435 110-607 Local Tax	\$	13,600,000	\$	13,700,000	89995
Administration					
436 110-608 Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	89996
437 110-606 Litter Tax and Natural	\$	625,232	\$	625,232	89997
Resource Tax					
Administration					
438 110-609 School District Income	\$	2,599,999	\$	2,599,999	89998
Tax					
5N5 110-605 Municipal Income Tax	\$	650,000	\$	650,000	89999
Administration					
5N6 110-618 Kilowatt Hour Tax	\$	85,000	\$	85,000	90000
Administration					
5V7 110-622 Motor Fuel Tax	\$	3,734,036	\$	3,833,091	90001
Administration					
5V8 110-623 Property Tax	\$	11,569,719	\$	11,938,362	90002
Administration					
5W4 110-625 Centralized Tax Filing	\$	3,000,000	\$	3,000,000	90003
and Payment					
639 110-614 Cigarette Tax	\$	168,925	\$	168,925	90004
Enforcement					
642 110-613 Ohio Political Party	\$	600,000	\$	600,000	90005
Distributions					

688	110-615	Local Excise Tax	\$	300,000	\$	300,000	90006
		Administration					
		TOTAL SSR State Special Revenue					90007
		Fund Group	\$	39,054,766	\$	39,622,464	90008
		Holding Account Redistribution Fund Group					90009
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	90010
R11	110-612	Miscellaneous Income	\$	50,000	\$	50,000	90011
		Tax Receipts					
		TOTAL 090 Holding Account					90012
		Redistribution Fund Group	\$	100,000	\$	100,000	90013
		TOTAL ALL BUDGET FUND GROUPS	\$	1,901,855,653	\$	1,971,035,232	90014
		TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT					90015
		Of the foregoing appropriation item 110-607, Local Tax					90016
		Administration, the Tax Commissioner may disburse funds, if					90017
		available, for the purposes of paying travel expenses incurred by					90018
		members of Ohio's delegation to the Streamlined Sales Tax Project,					90019
		as appointed under section 5740.02 of the Revised Code. Any travel					90020
		expense reimbursement paid for by the Department of Taxation shall					90021
		be done in accordance with applicable state laws and guidelines.					90022
		LITTER CONTROL TAX ADMINISTRATION FUND					90023
		Notwithstanding section 5733.12 of the Revised Code, during					90024
		the period from July 1, 2003, to June 30, 2004, the amount of					90025
		\$625,232, and during the period from July 1, 2004, to June 30,					90026
		2005, the amount of \$625,232, received by the Tax Commissioner					90027
		under Chapter 5733. of the Revised Code, shall be credited to the					90028
		Litter Control Tax Administration Fund (Fund 437).					90029
		CENTRALIZED TAX FILING AND PAYMENT FUND					90030
		The Director of Budget and Management pursuant to a plan					90031
		submitted by the Tax Commissioner, or as otherwise determined by					90032
		the Director of Budget and Management, shall set a schedule to					90033
		transfer cash from the General Revenue Fund to the credit of the					90034

Centralized Tax Filing and Payment Fund. Such transfers of cash 90035  
shall not exceed \$3,000,000 in any fiscal year. 90036

INTERNATIONAL REGISTRATION PLAN AUDIT 90037

The foregoing appropriation item 110-616, International 90038  
Registration Plan, shall be used pursuant to section 5703.12 of 90039  
the Revised Code for audits of persons with vehicles registered 90040  
under the International Registration Plan. 90041

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 90042  
EXEMPTION 90043

The foregoing appropriation item 110-901, Property Tax 90044  
Allocation - Taxation, is appropriated to pay for the state's 90045  
costs incurred due to the Homestead Exemption, the Manufactured 90046  
Home Property Tax Rollback, and the Property Tax Rollback. The Tax 90047  
Commissioner shall distribute these funds directly to the 90048  
appropriate local taxing districts of the state, except for school 90049  
districts, notwithstanding the provisions in sections 321.24 and 90050  
323.156 of the Revised Code, which provide for payment of the 90051  
Homestead Exemption, the Manufactured Home Property Tax Rollback, 90052  
and Property Tax Rollback by the Tax Commissioner to the 90053  
appropriate county treasurer and the subsequent redistribution of 90054  
these funds to the appropriate local taxing districts by the 90055  
county auditor. 90056

The foregoing appropriation item 110-906, Tangible Tax 90057  
Exemption - Taxation, is appropriated to pay for the state's costs 90058  
incurred due to the tangible personal property tax exemption 90059  
required by division (C)(3) of section 5709.01 of the Revised 90060  
Code. The Tax Commissioner shall distribute to each county 90061  
treasurer the total amount certified by the county treasurer 90062  
pursuant to section 319.311 of the Revised Code for all local 90063  
taxing districts located in the county except for school 90064  
districts, notwithstanding the provision in section 319.311 of the 90065

Revised Code which provides for payment of the \$10,000 tangible 90066  
personal property tax exemption by the Tax Commissioner to the 90067  
appropriate county treasurer for all local taxing districts 90068  
located in the county including school districts. Pursuant to 90069  
division (G) of section 321.24 of the Revised Code, the county 90070  
auditor shall distribute the amount paid by the Tax Commissioner 90071  
among the appropriate local taxing districts except for school 90072  
districts. 90073

Upon receipt of these amounts, each local taxing district 90074  
shall distribute the amount among the proper funds as if it had 90075  
been paid as real or tangible personal property taxes. Payments 90076  
for the costs of administration shall continue to be paid to the 90077  
county treasurer and county auditor as provided for in sections 90078  
319.54, 321.26, and 323.156 of the Revised Code. 90079

Any sums, in addition to the amounts specifically 90080  
appropriated in appropriation items 110-901, Property Tax 90081  
Allocation - Taxation, for the Homestead Exemption, the 90082  
Manufactured Home Property Tax Rollback, and the Property Tax 90083  
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 90084  
for the \$10,000 tangible personal property tax exemption payments, 90085  
which are determined to be necessary for these purposes, are 90086  
hereby appropriated. 90087

MUNICIPAL INCOME TAX 90088

The foregoing appropriation item 110-901, Municipal Income 90089  
Tax, shall be used to make payments to municipal corporations as 90090  
provided in section 5745.05 of the Revised Code. If it is 90091  
determined that additional appropriations are necessary to make 90092  
such payments, such amounts are hereby appropriated. 90093

TAX REFUNDS 90094

The foregoing appropriation item 110-635, Tax Refunds, shall 90095  
be used to pay refunds as provided in section 5703.052 of the 90096

Revised Code. If it is determined that additional appropriations 90097  
are necessary, such amounts are appropriated. 90098

**Section 104.** DOT DEPARTMENT OF TRANSPORTATION 90099

Transportation Modes 90100

General Revenue Fund 90101

GRF 775-451 Public Transportation \$ 18,875,595 \$ 19,525,595 90102  
- State

GRF 776-465 Ohio Rail Development \$ 3,116,889 \$ 2,936,056 90103  
Commission

GRF 776-466 Railroad \$ 500,000 \$ 840,000 90104  
Crossing/Grade  
Separation

GRF 777-471 Airport Improvements - \$ 1,908,495 \$ 1,908,495 90105  
State

GRF 777-473 Rickenbacker Lease \$ 591,600 \$ 591,500 90106  
Payments - State

TOTAL GRF General Revenue Fund \$ 24,992,579 \$ 25,801,646 90107

Federal Special Revenue Fund Group 90108

3B9 776-662 Rail Transportation - \$ 50,000 \$ 50,000 90109  
Federal

TOTAL FSR Federal Special Revenue 90110

Fund Group \$ 50,000 \$ 50,000 90111

State Special Revenue Fund Group 90112

4N4 776-663 Panhandle Lease \$ 770,000 \$ 770,000 90113  
Reserve Payments

4N4 776-664 Rail Transportation - \$ 1,919,500 \$ 2,111,500 90114  
Other

TOTAL SSR State Special Revenue 90115

Fund Group \$ 2,689,500 \$ 2,881,500 90116

TOTAL ALL BUDGET FUND GROUPS \$ 27,732,079 \$ 28,733,146 90117

ELDERLY AND DISABLED FARE ASSISTANCE 90118

Of the foregoing appropriation item 775-451, Public Transportation - State, up to \$4,012,780 in fiscal year 2004 and \$5,015,975 in fiscal year 2005 may be used to make grants to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. Pursuant to division (B) of section 5501.07 of the Revised Code, the Director of Transportation shall establish criteria for the distribution of these grants.

AVIATION LEASE PAYMENTS

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

**Section 105. TOS TREASURER OF STATE**

General Revenue Fund  
GRF 090-321 Operating Expenses \$ 9,329,082 \$ 9,619,082  
GRF 090-401 Office of the Sinking Fund \$ 554,868 \$ 554,868  
GRF 090-402 Continuing Education \$ 463,585 \$ 463,585  
GRF 090-524 Police and Fire Disability Pension \$ 35,000 \$ 30,000

GRF 090-534	Police & Fire Ad Hoc	\$	225,000	\$	230,000	90149
	Cost					
	of Living					90150
GRF 090-544	Police and Fire State	\$	1,200,000	\$	1,200,000	90151
	Contribution					90152
GRF 090-554	Police and Fire	\$	1,320,000	\$	1,260,000	90153
	Survivor					
	Benefits					90154
GRF 090-575	Police and Fire Death	\$	24,000,000	\$	25,000,000	90155
	Benefits					90156
TOTAL GRF General Revenue Fund		\$	37,127,535	\$	38,357,535	90157
Agency Fund Group						90158
425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000	90159
TOTAL Agency Fund Group		\$	31,000,000	\$	31,000,000	90160
General Services Fund Group						90161
4E9 090-603	Securities Lending	\$	2,400,000	\$	2,100,000	90162
	Income					
577 090-605	Investment Pool	\$	600,000	\$	550,000	90163
	Reimbursement					90164
605 090-609	Treasurer of State	\$	600,000	\$	700,000	90165
	Administrative Fund					90166
TOTAL GSF General Services						90167
Fund Group		\$	3,600,000	\$	3,350,000	90168
State Special Revenue Fund Group						90169
5C5 090-602	County Treasurer	\$	175,000	\$	135,000	90170
	Education					
TOTAL SSR State Special Revenue						90171
Fund Group		\$	175,000	\$	135,000	90172
TOTAL ALL BUDGET FUND GROUPS		\$	71,902,535	\$	72,842,535	90173

**Section 105.01. OFFICE OF THE SINKING FUND** 90175

The foregoing appropriation item 090-401, Office of the 90176

Sinking Fund, shall be used for financing and other costs incurred 90177  
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 90178  
Public Facilities Commission or its secretary, or the Treasurer of 90179  
State, with respect to State of Ohio general obligation bonds or 90180  
notes, including, but not limited to, printing, advertising, 90181  
delivery, rating fees and the procurement of ratings, professional 90182  
publications, membership in professional organizations, and 90183  
services referred to in division (D) of section 151.01 of the 90184  
Revised Code. The General Revenue Fund shall be reimbursed for 90185  
such costs by intrastate transfer voucher pursuant to a 90186  
certification by the Office of the Sinking Fund of the actual 90187  
amounts used. The amounts necessary to make such reimbursements 90188  
are appropriated from the general obligation bond retirement funds 90189  
created by the Constitution and laws to the extent such costs are 90190  
incurred. 90191

POLICE AND FIRE DEATH BENEFIT FUND 90192

The foregoing appropriation item 090-575, Police and Fire 90193  
Death Benefits, shall be disbursed annually by the Treasurer of 90194  
State at the beginning of each fiscal year to the Board of 90195  
Trustees of the Ohio Police and Fire Pension Fund. By the 90196  
twentieth day of June of each year, the Board of Trustees of the 90197  
Ohio Police and Fire Pension Fund shall certify to the Treasurer 90198  
of State the amount disbursed in the current fiscal year to make 90199  
the payments required by section 742.63 of the Revised Code and 90200  
shall return to the Treasurer of State moneys received from this 90201  
item but not disbursed. 90202

The foregoing appropriation item 090-635, Tax Refunds, shall 90203  
be used to pay refunds as provided in section 5703.052 of the 90204  
Revised Code. If it is determined by the Director of Budget and 90205  
Management that additional amounts are necessary, such amounts are 90206  
appropriated. 90207

<b>Section 106.</b>	UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE				90208
	COMPENSATION BOARD				90209
	State Special Revenue Fund Group				90210
691	810-632 PUSTRCB Staff	\$	1,075,158	\$	1,075,158
	TOTAL SSR State Special Revenue				90212
	Fund Group	\$	1,075,158	\$	1,075,158
	TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,075,158
					90214
<b>Section 107.</b>	TTA OHIO TUITION TRUST AUTHORITY				90216
	State Special Revenue Fund Group				90217
5P3	095-602 Variable Savings Plan	\$	1,639,747	\$	1,690,213
645	095-601 Operating Expenses	\$	3,570,614	\$	3,689,101
	TOTAL SSR State Special Revenue				90220
	Fund Group	\$	5,210,361	\$	5,379,314
	TOTAL ALL BUDGET FUND GROUPS	\$	5,210,361	\$	5,379,314
					90222
<b>Section 108.</b>	OVH OHIO VETERANS' HOME				90224
	General Revenue Fund				90225
GRF	430-100 Personal Services	\$	20,664,311	\$	18,877,112
GRF	430-200 Maintenance	\$	6,912,553	\$	6,546,928
	TOTAL GRF General Revenue Fund	\$	27,576,864	\$	25,424,040
	General Services Fund Group				90229
484	430-603 Rental and Service	\$	709,737	\$	709,737
	Revenue				90230
	TOTAL GSF General Services Fund	\$	709,737	\$	709,737
	Group				90231
	Federal Special Revenue Fund Group				90232
3L2	430-601 Federal Grants	\$	12,220,340	\$	14,696,578
	TOTAL FED Federal Special Revenue				90234
	Fund Group	\$	12,220,340	\$	14,696,578
					90235

State Special Revenue Fund Group				90236
4E2 430-602 Veterans Home	\$	6,719,938	\$ 7,769,277	90237
Operating				
604 430-604 Veterans Home	\$	770,096	\$ 770,096	90238
Improvement				
TOTAL SSR State Special Revenue				90239
Fund Group	\$	7,490,034	\$ 8,539,373	90240
TOTAL ALL BUDGET FUND GROUPS	\$	47,996,975	\$ 49,369,728	90241
<b>Section 108.01. VET VETERANS' ORGANIZATIONS</b>				90243
General Revenue Fund				90244
VAP AMERICAN EX-PRISONERS OF WAR				90245
GRF 743-501 State Support	\$	25,030	\$ 25,030	90246
VAN ARMY AND NAVY UNION, USA, INC.				90247
GRF 746-501 State Support	\$	55,012	\$ 55,012	90248
VKW KOREAN WAR VETERANS				90249
GRF 747-501 State Support	\$	53,953	\$ 49,453	90250
VJW JEWISH WAR VETERANS				90251
GRF 748-501 State Support	\$	29,715	\$ 29,715	90252
VCW CATHOLIC WAR VETERANS				90253
GRF 749-501 State Support	\$	57,990	\$ 57,990	90254
VPH MILITARY ORDER OF THE PURPLE HEART				90255
GRF 750-501 State Support	\$	56,377	\$ 56,377	90256
VVV VIETNAM VETERANS OF AMERICA				90257
GRF 751-501 State Support	\$	185,954	\$ 185,954	90258
VAL AMERICAN LEGION OF OHIO				90259
GRF 752-501 State Support	\$	252,328	\$ 252,328	90260
VII AMVETS				90261
GRF 753-501 State Support	\$	237,919	\$ 237,919	90262
VAV DISABLED AMERICAN VETERANS				90263
GRF 754-501 State Support	\$	166,308	\$ 166,308	90264
VMC MARINE CORPS LEAGUE				90265

GRF 756-501 State Support	\$	85,972	\$	85,972	90266
V37 37TH DIVISION AEF VETERANS' ASSOCIATION					90267
GRF 757-501 State Support	\$	5,946	\$	5,946	90268
VFW VETERANS OF FOREIGN WARS					90269
GRF 758-501 State Support	\$	196,615	\$	196,615	90270
TOTAL GRF General Revenue Fund	\$	1,409,119	\$	1,404,619	90271
TOTAL ALL BUDGET FUND GROUPS	\$	1,409,119	\$	1,404,619	90272

RELEASE OF FUNDS 90273

The foregoing appropriation items 743-501, 746-501, 747-501, 90274  
748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 90275  
756-501, 757-501, and 758-501, State Support, shall be released 90276  
upon approval by the Director of Budget and Management. 90277

50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR 90278

Of the foregoing appropriation item 747-501, State Support, 90279  
Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be 90280  
used for activities to commemorate the 50th anniversary of the 90281  
Korean War. Commemorative activities shall be carried out by the 90282  
Korean War Veterans Organization with input from the Governor's 90283  
Office of Veterans Affairs and the other veterans organizations 90284  
representing Korean War veterans. 90285

AMERICAN EX-PRISONERS OF WAR 90286

The American Ex-Prisoners of War shall be permitted to share 90287  
an office with the Veterans of World War I. 90288

CENTRAL OHIO UNITED SERVICES ORGANIZATION 90289

Of the foregoing appropriation item 751-501, State Support, 90290  
Vietnam Veterans of America, \$50,000 in each fiscal year shall be 90291  
used to support the activities of the Central Ohio USO. 90292

VETERANS SERVICE COMMISSION EDUCATION 90293

Of the foregoing appropriation item 753-501, State Support, 90294  
AMVETS, up to \$20,000 in each fiscal year may be used to provide 90295

moneys to the Association of County Veterans Service Commissioners 90296  
to reimburse its member county veterans service commissions for 90297  
costs incurred in carrying out educational and outreach duties 90298  
required under divisions (E) and (F) of section 5901.03 of the 90299  
Revised Code. The Director of Budget and Management shall release 90300  
these funds upon the presentation of an itemized receipt from the 90301  
association for reasonable and appropriate expenses incurred while 90302  
performing these duties. The association shall establish uniform 90303  
procedures for reimbursing member commissions. 90304

**Section 109. DVM STATE VETERINARY MEDICAL BOARD 90305**

General Services Fund Group 90306  
4K9 888-609 Operating Expenses \$ 444,208 \$ 453,043 90307  
TOTAL GSF General Services 90308  
Fund Group \$ 444,208 \$ 453,043 90309  
TOTAL ALL BUDGET FUND GROUPS \$ 444,208 \$ 453,043 90310

**Section 111. DYS DEPARTMENT OF YOUTH SERVICES 90312**

General Revenue Fund 90313  
GRF 470-401 RECLAIM Ohio \$ 164,637,416 \$ 167,697,792 90314  
GRF 470-412 Lease Rental Payments \$ 21,110,100 \$ 21,110,000 90315  
GRF 470-510 Youth Services \$ 18,608,587 \$ 18,608,587 90316  
GRF 472-321 Parole Operations \$ 15,347,154 \$ 14,841,872 90317  
GRF 477-321 Administrative \$ 14,427,323 \$ 14,166,008 90318  
Operations  
TOTAL GRF General Revenue Fund \$ 234,130,580 \$ 236,424,259 90319  
General Services Fund Group 90320  
175 470-613 Education \$ 8,817,598 \$ 8,817,598 90321  
Reimbursement  
4A2 470-602 Child Support \$ 311,302 \$ 320,641 90322  
4G6 470-605 General Operational \$ 10,000 \$ 10,000 90323  
Funds

479	470-609	Employee Food Service	\$	118,454	\$	122,008	90324
523	470-621	Wellness Program	\$	197,778	\$	197,778	90325
TOTAL GSF General Services							90326
Fund Group			\$	9,455,132	\$	9,468,025	90327
Federal Special Revenue Fund Group							90328
3V5	470-604	Juvenile Justice/Delinquency Prevention	\$	4,091,100	\$	4,254,744	90329
3W0	470-611	Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0	90330
3Z8	470-625	Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000	90331
3Z9	470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899	90332
321	470-601	Education	\$	1,491,587	\$	1,555,147	90333
321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138	90334
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170	90335
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000	90336
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282	90337
321	470-617	Americorps Programs	\$	460,000	\$	460,000	90338
TOTAL FED Federal Special Revenue							90339
Fund Group			\$	27,680,313	\$	28,146,380	90340
State Special Revenue Fund Group							90341
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612	90342
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587	90343
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000	90344
TOTAL SSR State Special Revenue							90345
Fund Group			\$	3,035,240	\$	3,142,199	90346



foregoing appropriation item 470-609, Employee Food Service, may 90377  
be used to purchase any food operational items with funds received 90378  
into the fund from reimbursement for state surplus property. 90379

EDUCATION REIMBURSEMENT 90380

The foregoing appropriation item 470-613, Education 90381  
Reimbursement, shall be used to fund the operating expenses of 90382  
providing educational services to youth supervised by the 90383  
Department of Youth Services. Operating expenses include, but are 90384  
not limited to, teachers' salaries, maintenance costs, and 90385  
educational equipment. This appropriation item shall not be used 90386  
for capital expenses. 90387

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 90388  
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 90389

Any business relating to the funds associated with the Office 90390  
of Criminal Justice Services' appropriation item 196-602, Criminal 90391  
Justice Federal Programs, commenced but not completed by the 90392  
Office of Criminal Justice Services or its director shall be 90393  
completed by the Department of Youth Services or its director in 90394  
the same manner, and with the same effect, as if completed by the 90395  
Office of Criminal Justice Services or its director. No 90396  
validation, cure, right, privilege, remedy, obligation, or 90397  
liability is lost or impaired by reason of the transfer and shall 90398  
be administered by the Department of Youth Services. 90399

Any action or proceeding against the Office of Criminal 90400  
Justice Services pending on the effective date of this section 90401  
shall not be affected by the transfer of responsibility to the 90402  
Department of Youth Services, and shall be prosecuted or defended 90403  
in the name of the Department of Youth Services or its director. 90404  
In all such actions and proceedings, the Department of Youth 90405  
Services or its director upon application of the court shall be 90406  
substituted as party. 90407

**Section 112.** EXPENDITURES AND APPROPRIATION INCREASES 90408  
APPROVED BY THE CONTROLLING BOARD 90409

Any money that the Controlling Board approves for expenditure 90410  
or any increase in appropriation authority that the Controlling 90411  
Board approves pursuant to the provisions of sections 127.14, 90412  
131.35, and 131.39 of the Revised Code or any other provision of 90413  
law is appropriated for the period ending June 30, 2005. 90414

**Section 113.** PERSONAL SERVICE EXPENSES 90415

Unless otherwise prohibited by law, any appropriation from 90416  
which personal service expenses are paid shall bear the employer's 90417  
share of public employees' retirement, workers' compensation, 90418  
disabled workers' relief, and all group insurance programs; the 90419  
costs of centralized accounting, centralized payroll processing, 90420  
and related personnel reports and services; the cost of the Office 90421  
of Collective Bargaining; the cost of the Personnel Board of 90422  
Review; the cost of the Employee Assistance Program; the cost of 90423  
the affirmative action and equal employment opportunity programs 90424  
administered by the Department of Administrative Services; the 90425  
costs of interagency information management infrastructure; and 90426  
the cost of administering the state employee merit system as 90427  
required by section 124.07 of the Revised Code. These costs shall 90428  
be determined in conformity with appropriate sections of law and 90429  
paid in accordance with procedures specified by the Office of 90430  
Budget and Management. Expenditures from appropriation item 90431  
070-601, Public Audit Expense - Local Government, in Fund 422 may 90432  
be exempted from the requirements of this section. 90433

**Section 114.** REISSUANCE OF VOIDED WARRANTS 90434

In order to provide funds for the reissuance of voided 90435  
warrants pursuant to section 117.47 of the Revised Code, there is 90436

appropriated, out of moneys in the state treasury from the fund 90437  
credited as provided in section 117.47 of the Revised Code, that 90438  
amount sufficient to pay such warrants when approved by the Office 90439  
of Budget and Management. 90440

**Section 115. \* CAPITAL PROJECT SETTLEMENTS** 90441

This section specifies an additional and supplemental 90442  
procedure to provide for payments of judgments and settlements if 90443  
the Director of Budget and Management determines, pursuant to 90444  
division (C)(4) of section 2743.19 of the Revised Code, that 90445  
sufficient unencumbered moneys do not exist in the particular 90446  
appropriation to pay the amount of a final judgment rendered 90447  
against the state or a state agency, including the settlement of a 90448  
claim approved by a court, in an action upon and arising out of a 90449  
contractual obligation for the construction or improvement of a 90450  
capital facility if the costs under the contract were payable in 90451  
whole or in part from a state capital projects appropriation. In 90452  
such a case, the director may either proceed pursuant to division 90453  
(C)(4) of section 2743.19 of the Revised Code, or apply to the 90454  
Controlling Board to increase an appropriation or create an 90455  
appropriation out of any unencumbered moneys in the state treasury 90456  
to the credit of the capital projects fund from which the initial 90457  
state appropriation was made. The Controlling Board may approve or 90458  
disapprove the application as submitted or modified. The amount of 90459  
an increase in appropriation or new appropriation specified in an 90460  
application approved by the Controlling Board is hereby 90461  
appropriated from the applicable capital projects fund and made 90462  
available for the payment of the judgment or settlement. 90463

If the director does not make the application authorized by 90464  
this section or the Controlling Board disapproves the application, 90465  
and the director does not make application pursuant to division 90466  
(C)(4) of section 2743.19 of the Revised Code, the director shall 90467

for the purpose of making that payment make a request to the 90468  
General Assembly as provided for in division (C)(5) of that 90469  
section. 90470

**Section 116. INCOME TAX DISTRIBUTION TO COUNTIES** 90471

There are hereby appropriated out of any moneys in the state 90472  
treasury to the credit of the General Revenue Fund, which are not 90473  
otherwise appropriated, funds sufficient to make any payment 90474  
required by division (B)(2) of section 5747.03 of the Revised 90475  
Code. 90476

**Section 117. SATISFACTION OF JUDGMENTS AND SETTLEMENTS** 90477  
**AGAINST THE STATE** 90478

Any appropriation may be used for the purpose of satisfying 90479  
judgments or settlements in connection with civil actions against 90480  
the state in federal court not barred by sovereign immunity or the 90481  
Eleventh Amendment to the Constitution of the United States, or 90482  
for the purpose of satisfying judgments, settlements, or 90483  
administrative awards ordered or approved by the Court of Claims 90484  
in connection with civil actions against the state, pursuant to 90485  
section 2743.15, 2743.19, or 2743.191 of the Revised Code. This 90486  
authorization does not apply to appropriations to be applied to or 90487  
used for payment of guarantees by or on behalf of the state, for 90488  
or relating to lease payments or debt service on bonds, notes, or 90489  
similar obligations and those from the Sports Facilities Building 90490  
Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the 90491  
Administrative Building Fund (Fund 026), the Adult Correctional 90492  
Building Fund (Fund 027), the Juvenile Correctional Building Fund 90493  
(Fund 028), the Transportation Building Fund (Fund 029), the Arts 90494  
Facilities Building Fund (Fund 030), the Natural Resources 90495  
Projects Fund (Fund 031), the School Building Program Assistance 90496  
Fund (Fund 032), the Mental Health Facilities Improvement Fund 90497

(Fund 033), the Higher Education Improvement Fund (Fund 034), the  
Parks and Recreation Improvement Fund (Fund 035), the State  
Capital Improvements Fund (Fund 038), the Highway Obligation Fund  
(Fund 041), the Coal Research/Development Fund (Fund 046), and any  
other fund into which proceeds of obligations are deposited.  
Nothing contained in this section is intended to subject the state  
to suit in any forum in which it is not otherwise subject to suit,  
nor is it intended to waive or compromise any defense or right  
available to the state in any suit against it.

**Section 118. \* UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS**

The maximum amounts that may be assessed against nuclear  
electric utilities in accordance with division (B)(2) of section  
4937.05 of the Revised Code are as follows:

	FY 2004	FY 2005	
Department of Agriculture			
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	
Department of Health			
Fund 610 Radiation Emergency Response	\$923,315	\$923,315	
Environmental Protection Agency			
Fund 644 ER Radiological Safety	\$281,424	\$286,114	
Emergency Management Agency			
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000	

**Section 119. UNCLAIMED FUNDS TRANSFER**

Notwithstanding division (A) of section 169.05 of the Revised  
Code, prior to June 30, 2004, upon the request of the Director of  
Budget and Management, the Director of Commerce shall transfer to  
the General Revenue Fund up to \$25,000,000 of the unclaimed funds  
that have been reported by the holder of unclaimed funds as  
provided by section 169.05 of the Revised Code, irrespective of  
the allocation of the unclaimed funds under that section.

<b>Section 120.</b> GRF TRANSFER TO FUND 5N4, OAKS PROJECT	90528
IMPLEMENTATION	90529
On July 1, 2003, or as soon thereafter as possible, the	90530
Director of Budget and Management shall transfer up to \$1,250,000	90531
in cash from the General Revenue Fund to Fund 5N4, OAKS Project	90532
Implementation. On July 1, 2004, or as soon thereafter as	90533
possible, the Director of Budget and Management shall transfer up	90534
to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4,	90535
OAKS Project Implementation.	90536
<b>Section 120a.</b> FUND 4K9 TRANSFER TO GRF	90537
On July 31, 2003, or as soon thereafter as possible, the	90538
Director of Budget and Management shall transfer \$2,000,000 in	90539
cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to	90540
the General Revenue Fund.	90541
<b>Section 121.</b> CORPORATE AND UCC FILING FUND TRANSFER TO GRF	90542
Not later than the first day of June in each year of the	90543
biennium, the Director of Budget and Management shall transfer	90544
\$1,000,000 from the Corporate and Uniform Commercial Code Filing	90545
Fund to the General Revenue Fund.	90546
<b>Section 122.</b> GENERAL OBLIGATION DEBT SERVICE PAYMENTS	90547
Certain appropriations are in this act for the purpose of	90548
paying debt service and financing costs on general obligation	90549
bonds or notes of the state issued pursuant to the Ohio	90550
Constitution and acts of the General Assembly. If it is determined	90551
that additional appropriations are necessary for this purpose,	90552
such amounts are appropriated.	90553
<b>Section 123.</b> LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF	90554

STATE 90555

Certain appropriations are in this act for the purpose of 90556  
making lease payments pursuant to leases and agreements relating 90557  
to bonds or notes issued by the Ohio Building Authority or the 90558  
Treasurer of State or, previously, by the Ohio Public Facilities 90559  
Commission, pursuant to the Ohio Constitution and acts of the 90560  
General Assembly. If it is determined that additional 90561  
appropriations are necessary for this purpose, such amounts are 90562  
appropriated. 90563

**Section 124.** AUTHORIZATION FOR TREASURER OF STATE AND OBM TO 90564  
EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 90565

The Office of Budget and Management shall initiate and 90566  
process disbursements from general obligation and lease rental 90567  
payment appropriation items during the period from July 1, 2003, 90568  
to June 30, 2005, relating to bonds or notes issued under Sections 90569  
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 90570  
and Chapters 151., 154., and 3318. of the Revised Code. 90571  
Disbursements shall be made upon certification by the Treasurer of 90572  
State of the dates and amounts due on those dates. 90573

**Section 125.** STATE AND LOCAL REBATE AUTHORIZATION 90574

There is hereby appropriated, from those funds designated by 90575  
or pursuant to the applicable proceedings authorizing the issuance 90576  
of state obligations, amounts computed at the time to represent 90577  
the portion of investment income to be rebated or amounts in lieu 90578  
of or in addition to any rebate amount to be paid to the federal 90579  
government in order to maintain the exclusion from gross income 90580  
for federal income tax purposes of interest on those state 90581  
obligations pursuant to section 148(f) of the Internal Revenue 90582  
Code. 90583

Rebate payments shall be approved and vouchered by the Office 90584

of Budget and Management. 90585

**Section 126.** APPROPRIATIONS RELATED TO CASH TRANSFERS AND 90586  
REESTABLISHMENT OF ENCUMBRANCES 90587

Any cash transferred by the Director of Budget and Management 90588  
as provided by section 126.15 of the Revised Code is appropriated. 90589  
Any amounts necessary to reestablish appropriations or 90590  
encumbrances as provided in section 126.15 of the Revised Code are 90591  
appropriated. 90592

**Section 127.** FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 90593

Pursuant to the plan for compliance with the Federal Cash 90594  
Management Improvement Act required by section 131.36 of the 90595  
Revised Code, the Director of Budget and Management is authorized 90596  
to cancel and reestablish all or parts of encumbrances in like 90597  
amounts within the funds identified by the plan. The amounts 90598  
necessary to reestablish all or parts of encumbrances are 90599  
appropriated. 90600

**Section 128.** STATEWIDE INDIRECT COST RECOVERY 90601

Whenever the Director of Budget and Management determines 90602  
that an appropriation made to a state agency from a fund of the 90603  
state is insufficient to provide for the recovery of statewide 90604  
indirect costs pursuant to section 126.12 of the Revised Code, the 90605  
amount required for such purpose is appropriated from the 90606  
available receipts of such fund. 90607

**Section 129.** GRF TRANSFERS ON BEHALF OF THE STATEWIDE 90608  
INDIRECT COST ALLOCATION PLAN 90609

The total transfers made from the General Revenue Fund by the 90610  
Director of Budget and Management pursuant to this section shall 90611  
not exceed the amounts transferred into the General Revenue Fund 90612

pursuant to division (B) of section 126.12 of the Revised Code. 90613

A director of an agency may certify to the Director of Budget 90614  
and Management the amount of expenses not allowed to be included 90615  
in the Statewide Indirect Cost Allocation plan pursuant to federal 90616  
regulations, from any fund included in the Statewide Indirect Cost 90617  
Allocation plan, prepared as required by section 126.12 of the 90618  
Revised Code. 90619

Upon determining that no alternative source of funding is 90620  
available to pay for such expenses, the Director of Budget and 90621  
Management may transfer from the General Revenue Fund into the 90622  
fund for which the certification is made, up to the amount of the 90623  
certification. The director of the agency receiving such funds 90624  
shall include, as part of the next budget submission prepared 90625  
pursuant to section 126.02 of the Revised Code, a request for 90626  
funding for such activities from an alternative source such that 90627  
further federal disallowances would not be required. 90628

**Section 130. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 90629**  
**BALANCES OF OPERATING APPROPRIATIONS 90630**

An unexpended balance of an operating appropriation or 90631  
reappropriation that a state agency lawfully encumbered prior to 90632  
the close of a fiscal year is reappropriated on the first day of 90633  
July of the following fiscal year from the fund from which it was 90634  
originally appropriated or reappropriated for the following period 90635  
and shall remain available only for the purpose of discharging the 90636  
encumbrance: 90637

(A) For an encumbrance for personal services, maintenance, 90638  
equipment, or items for resale, other than an encumbrance for an 90639  
item of special order manufacture not available on term contract 90640  
or in the open market or for reclamation of land or oil and gas 90641  
wells for a period of not more than five months from the end of 90642  
the fiscal year; 90643

(B) For an encumbrance for an item of special order 90644  
manufacture not available on term contract or in the open market, 90645  
for a period of not more than five months from the end of the 90646  
fiscal year or, with the written approval of the Director of 90647  
Budget and Management, for a period of not more than twelve months 90648  
from the end of the fiscal year; 90649

(C) For an encumbrance for reclamation of land or oil and gas 90650  
wells, for a period ending when the encumbered appropriation is 90651  
expended or for a period of two years, whichever is less; 90652

(D) For an encumbrance for any other expense, for such period 90653  
as the director approves, provided such period does not exceed two 90654  
years. 90655

Any operating appropriations for which unexpended balances 90656  
are reappropriated beyond a five-month period from the end of the 90657  
fiscal year, pursuant to division (B) of this section, shall be 90658  
reported to the Controlling Board by the Director of Budget and 90659  
Management by the thirty-first day of December of each year. The 90660  
report on each such item shall include the item, the cost of the 90661  
item, and the name of the vendor. This report to the board shall 90662  
be updated on a quarterly basis for encumbrances remaining open. 90663

Upon the expiration of the reappropriation period set out in 90664  
divisions (A), (B), (C), or (D) of this section, a reappropriation 90665  
made pursuant to this section lapses, and the Director of Budget 90666  
and Management shall cancel the encumbrance of the unexpended 90667  
reappropriation not later than the end of the weekend following 90668  
the expiration of the reappropriation period. 90669

Notwithstanding the preceding paragraph, with the approval of 90670  
the Director of Budget and Management, an unexpended balance of an 90671  
encumbrance that was reappropriated on the first day of July 90672  
pursuant to this section for a period specified in division (C) or 90673  
(D) of this section and that remains encumbered at the close of 90674

the fiscal biennium is hereby reappropriated pursuant to this 90675  
section on the first day of July of the following fiscal biennium 90676  
from the fund from which it was originally appropriated or 90677  
reappropriated for the applicable period specified in division (C) 90678  
or (D) of this section and shall remain available only for the 90679  
purpose of discharging the encumbrance. 90680

If the Controlling Board approved a purchase, that approval 90681  
remains in effect as long as the appropriation used to make that 90682  
purchase remains encumbered. 90683

**Section 131. FEDERAL GOVERNMENT INTEREST REQUIREMENTS** 90684

Notwithstanding any provision of law to the contrary, on or 90685  
before the first day of September of each fiscal year, the 90686  
Director of Budget and Management, in order to reduce the payment 90687  
of adjustments to the federal government, as determined by the 90688  
plan prepared pursuant to division (A) of section 126.12 of the 90689  
Revised Code, may designate such funds as the director considers 90690  
necessary to retain their own interest earnings. 90691

**Section 131.01.** That Sections 11 and 11.04 of Am. Sub. H.B. 90692  
87 of the 125th General Assembly be amended to read as follows: 90693

**Sec. 11. DOT DEPARTMENT OF TRANSPORTATION** 90694

FUND	TITLE	FY 2004	FY 2005	
	Transportation Planning and Research			90696
	Highway Operating Fund Group			90697
002 771-411	Planning and Research	\$ 14,548,950	\$ 15,070,100	90698
	- State			
002 771-412	Planning and Research	\$ 35,193,300	\$ 35,644,900	90699
	- Federal			
	TOTAL HOF Highway Operating			90700
Fund Group		\$ 49,742,250	\$ 50,715,000	90701

TOTAL ALL BUDGET FUND GROUPS -				90702
Transportation Planning				90703
and Research	\$	49,742,250	\$ 50,715,000	90704
Highway Construction				90705
Highway Operating Fund Group				90706
002 772-421 Highway Construction -	\$	485,577,430	\$ 442,367,300	90707
State				
002 772-422 Highway Construction -	\$	762,964,700	\$ 766,001,700	90708
Federal				
002 772-424 Highway Construction -	\$	70,000,000	\$ 51,000,000	90709
Other				
212 770-005 Infrastructure Debt	\$	72,064,200	\$ 78,696,100	90710
Service - Federal				
212 772-423 Infrastructure Lease	\$	12,537,800	\$ 12,537,300	90711
Payments - Federal				
212 772-426 Highway Infrastructure	\$	2,740,000	\$ 2,620,000	90712
Bank - Federal				
212 772-427 Highway Infrastructure	\$	11,000,000	\$ 11,000,000	90713
Bank - State				
TOTAL HOF Highway Operating				90714
Fund Group	\$	1,416,884,130	\$ 1,364,222,400	90715
Highway Capital Improvement Fund Group				90716
042 772-723 Highway Construction -	\$	220,000,000	\$ 220,000,000	90717
Bonds				
TOTAL 042 Highway Capital				90718
Improvement Fund Group	\$	220,000,000	\$ 220,000,000	90719
Infrastructure Bank Obligations				90720
Fund Group				
045 772-428 Highway Infrastructure	\$	40,000,000	\$ 40,000,000	90721
Bank - Bonds				
TOTAL 045 Infrastructure Bank				90722
Obligations Fund Group	\$	40,000,000	\$ 40,000,000	90723

TOTAL ALL BUDGET FUND GROUPS -				90724
Highway Construction	\$ 1,678,384,130	\$ 1,627,222,400		90725
Highway Maintenance				90726
Highway Operating Fund Group				90727
002 773-431 Highway Maintenance -	\$ 394,605,100	\$ 413,082,600		90728
State				
TOTAL HOF Highway Operating				90729
Fund Group	\$ 394,605,100	\$ 413,082,600		90730
TOTAL ALL BUDGET FUND GROUPS -				90731
Highway Maintenance	\$ 394,605,100	\$ 413,082,600		90732
Public Transportation				90733
Highway Operating Fund Group				90734
002 775-452 Public Transportation	\$ 27,000,000	\$ 27,000,000		90735
- Federal				
002 775-454 Public Transportation	\$ 1,500,000	\$ 1,500,000		90736
- Other				
002 775-459 Elderly and Disabled	\$ 4,230,000	\$ 4,230,000		90737
Special Equipment -				
Federal				
TOTAL HOF Highway Operating				90738
Fund Group	\$ 32,730,000	\$ 32,730,000		90739
TOTAL ALL BUDGET FUND GROUPS -				90740
Public Transportation	\$ 32,730,000	\$ 32,730,000		90741
Rail Transportation				90742
Highway Operating Fund Group				90743
002 776-462 Grade Crossings -	\$ 15,000,000	\$ 15,000,000		90744
Federal				
TOTAL HOF Highway Operating				90745
Fund Group	\$ 15,000,000	\$ 15,000,000		90746
<del>State Special Revenue Fund Group</del>				90747
<del>4A3 776-665 Railroad Crossing</del>	<del>\$ 1,000,000</del>	<del>\$</del>	<del>0</del>	90748
<del>Safety Devices</del>				

<del>TOTAL SSR State Special Revenue</del>	\$	<del>1,000,000</del>	\$	0	90749
<del>Fund Group</del>					
TOTAL ALL BUDGET FUND GROUPS -					90750
Rail Transportation	\$	<del>16,000,000</del>	\$	15,000,000	90751
		<u>15,000,000</u>			90752
Aviation					90753
Highway Operating Fund Group					90754
002 777-472 Airport Improvements -	\$	405,000	\$	405,000	90755
Federal					
002 777-475 Aviation	\$	4,064,700	\$	4,139,000	90756
Administration					
TOTAL HOF Highway Operating					90757
Fund Group	\$	4,469,700	\$	4,544,000	90758
TOTAL ALL BUDGET FUND GROUPS -					90759
Aviation	\$	4,469,700	\$	4,544,000	90760
Administration					90761
State Special Revenue Fund Group					90762
4T5 770-609 Administration	\$	5,000	\$	5,000	90763
Memorial Fund					
TOTAL SSR State Special Revenue					90764
Fund Group	\$	5,000	\$	5,000	90765
Highway Operating Fund Group					90766
002 779-491 Administration - State	\$	116,449,900	\$	121,986,500	90767
TOTAL HOF Highway Operating					90768
Fund Group	\$	116,449,900	\$	121,986,500	90769
TOTAL ALL BUDGET FUND GROUPS -					90770
Administration	\$	116,454,900	\$	121,991,500	90771
Debt Service					90772
Highway Operating Fund Group					90773
002 770-003 Administration - State	\$	13,802,600	\$	13,395,900	90774
- Debt Service					
TOTAL HOF Highway Operating					90775

Fund Group	\$	13,802,600	\$	13,395,900	90776
TOTAL ALL BUDGET FUND GROUPS -					90777
Debt Service	\$	13,802,600	\$	13,395,900	90778
TOTAL Department of Transportation					90779
TOTAL HOF Highway Operating					90780
Fund Group	\$	2,043,683,680	\$	2,015,676,400	90781
TOTAL 042 Highway Capital					90782
Improvement Fund Group	\$	220,000,000	\$	220,000,000	90783
TOTAL 045 Infrastructure Bank					90784
Obligations Fund Group	\$	40,000,000	\$	40,000,000	90785
TOTAL SSR State Special Revenue					90786
Fund Group	\$	<del>1,005,000</del>	\$	5,000	90787
		<u>5,000</u>			90788
TOTAL ALL BUDGET FUND GROUPS	\$	<del>2,304,688,680</del>	\$	2,275,681,400	90789
		<u>2,303,688,680</u>			90790

**Sec. 11.04. PUBLIC ACCESS ROADS FOR STATE FACILITIES** 90792

Of the foregoing appropriation item 772-421, Highway 90793  
Construction - State, \$3,145,500 is to be used each fiscal year 90794  
during the 2003-2005 biennium by the Department of Transportation 90795  
for the construction, reconstruction, or maintenance of public 90796  
access roads, including support features, to and within state 90797  
facilities owned or operated by the Department of Natural 90798  
Resources, as requested by the Director of Natural Resources. 90799

Notwithstanding section 5511.06 of the Revised Code, of the 90800  
foregoing appropriation item 772-421, Highway Construction - 90801  
State, \$2,228,000 in each fiscal year of the 2003-2005 biennium 90802  
shall be used by the Department of Transportation for the 90803  
construction, reconstruction, or maintenance of park drives or 90804  
park roads within the boundaries of metropolitan parks. 90805

Included in the foregoing appropriation item 772-421, Highway 90806  
Construction - State, the department may perform related road work 90807

on behalf of the Ohio Expositions Commission at the state 90808  
fairgrounds, including reconstruction or maintenance of public 90809  
access roads, including support features, to and within the 90810  
facilities as requested by the commission and approved by the 90811  
Director of Transportation. 90812

LIQUIDATION OF UNFORESEEN LIABILITIES 90813

Any appropriation made to the Department of Transportation, 90814  
Highway Operating Fund, not otherwise restricted by law, is 90815  
available to liquidate unforeseen liabilities arising from 90816  
contractual agreements of prior years when the prior year 90817  
encumbrance is insufficient. 90818

~~RUMBLE STRIPS AT RAILROAD CROSSINGS~~ 90819

~~Of the foregoing appropriation item 776-665, Railroad 90820  
Crossing Safety Devices, \$1,000,000 in fiscal year 2004 shall be 90821  
used by the Department of Transportation to fund competitive 90822  
grants to political subdivisions for the cost of putting rumble 90823  
strips at active railroad crossings without gates or lights. The 90824  
maximum amount of a competitive grant is \$50,000 for any single 90825  
crossing. Each political subdivision with jurisdiction over a 90826  
crossing may apply to the Department for a competitive grant for 90827  
the costs of putting rumble strips at crossings. Those political 90828  
subdivisions awarded grants shall install the rumble strips by 90829  
December 1, 2004. Those political subdivisions awarded such grants 90830  
shall not use the moneys as matching funds for any other state 90831  
rail safety programs. 90832~~

~~If rumble strips are not appropriate for a crossing, the 90833  
Department may allow the political subdivision which is awarded 90834  
the grant to use the funding for a safety device or technology 90835  
more appropriate for the crossing. 90836~~

~~The Department shall notify each political subdivision with 90837  
jurisdiction over a crossing of the requirements of this section 90838~~

~~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.~~ 90839  
90840  
90841  
90842

~~The Department shall spend no more than five per cent of the appropriation item on Department administrative expenses.~~ 90843  
90844

~~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.~~ 90845  
90846  
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90850  
90851  
90852

~~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.~~ 90853  
90854  
90855  
90856  
90857

**Section 131.02.** That existing Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly are hereby repealed. 90858  
90859

**Section 131.03.** That Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows: 90860  
90861

**Sec. 13.05. EMERGENCY MANAGEMENT** 90862

Federal Special Revenue Fund Group 90863

3N5 763-644 U.S. DOE Agreement	\$	266,000	\$	275,000	90864
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329 763-645 Individual/Family	\$	303,504	\$	303,504	90865
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Grant - Fed

337 763-609 Federal Disaster	\$	<del>5,000,000</del>	\$	3,000,000	90866
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Relief				
		<u>23,000,000</u>		90867
339 763-647 Emergency Management	\$	<del>129,622,000</del>	\$	<del>129,622,000</del> 90868
Assistance and				
Training				
		<u>111,622,000</u>	<u>111,622,000</u>	90869
TOTAL FED Federal Special				90870
Revenue Fund Group	\$	135,191,504	\$	<del>133,200,504</del> 90871
			<u>115,200,504</u>	90872
General Services Fund Group				90873
4V3 763-662 EMA Service and	\$	696,446	\$	696,446 90874
Reimbursement				
533 763-601 State Disaster Relief	\$	7,500,000	\$	7,500,000 90875
TOTAL GSF General Services				90876
Fund Group	\$	8,196,446	\$	8,196,446 90877
State Special Revenue Fund Group				90878
657 763-652 Utility Radiological	\$	1,200,000	\$	1,260,000 90879
Safety				
681 763-653 SARA Title III HAZMAT	\$	264,510	\$	271,510 90880
Planning				
TOTAL SSR State Special Revenue				90881
Fund Group	\$	1,464,510	\$	1,531,510 90882
TOTAL ALL BUDGET FUND GROUPS -				90883
Emergency Management	\$	144,852,460	\$	<del>142,928,460</del> 90884
			<u>124,928,460</u>	90885
SARA TITLE III HAZMAT PLANNING				90886
The SARA Title III HAZMAT Planning Fund (Fund 681) shall				90887
receive grant funds from the Emergency Response Commission to				90888
implement the Emergency Management Agency's responsibilities under				90889
Chapter 3750. of the Revised Code.				90890
STATE DISASTER RELIEF				90891

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.

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.

EMA SERVICE AND REIMBURSEMENT FUND

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 763-655, Salvage and Exchange-EMA, and reestablish them against appropriation item 763-662, EMA Service and Reimbursement. The

amounts of the reestablished encumbrances are hereby appropriated. 90924

**Section 131.04.** That existing Section 13.05 of Am. Sub. H.B. 90925  
87 of the 125th General Assembly is hereby repealed. 90926

**Section 131.05.** That Sections 1.09 and 35.03 of H.B. 675 of 90927  
the 124th General Assembly be amended to read as follows: 90928

**Sec. 1.09.** Sections 1.07 and 1.08 of ~~this act~~ H.B. 675 of the 90929  
124th General Assembly take effect ~~July~~ January 1, 2003 2004. 90930

**Sec. 35.03.** Section 5739.031 of the Revised Code takes effect 90931  
~~July 1, 2003~~ January 1, 2004. 90932

**Section 131.06.** That existing Sections 1.09 and 35.03 of H.B. 90933  
675 of the 124th General Assembly are hereby repealed. 90934

**Section 131.07.** The amendment by this act of Sections 1.09 90935  
and 35.03 of H.B. 675 of the 124th General Assembly provides for 90936  
or is essential to the implementation of a tax levy. Therefore, 90937  
under Ohio Constitution, Article II, Section 1d, the amendment is 90938  
not subject to the referendum and goes into immediate effect when 90939  
this act becomes law. 90940

**Section 131E.** That Sections 18.03, 18.04, 19.39, and 19.52 of 90941  
H.B. 675 of the 124th General Assembly be amended to read as 90942  
follows: 90943

Appropriations

<b>Sec. 18.03.</b> DMH DEPARTMENT OF MENTAL HEALTH			90944
CAP-479 Community Assistance Projects	\$	<del>3,912,500</del>	90945
		<u>3,662,500</u>	
CAP-906 Campus Consolidation/Automation	\$	12,040,000	90946
CAP-978 Infrastructure Improvements	\$	3,460,000	90947

Total Department of Mental Health	\$	<del>19,412,500</del>	90948
		<u>19,162,500</u>	

COMMUNITY ASSISTANCE PROJECTS 90949

Of the foregoing appropriation item CAP-479, Community 90950  
Assistance Projects, ~~\$500,000 shall be used for the Achievement~~ 90951  
~~Centers for Children in Cuyahoga County~~ \$250,000 shall be used for 90952  
the Berea Children's Home. 90953

**Sec. 18.04.** DMR DEPARTMENT OF MENTAL RETARDATION AND 90954  
DEVELOPMENTAL DISABILITIES 90955

Appropriations

STATEWIDE AND CENTRAL OFFICE PROJECTS 90956

CAP-480	Community Assistance Projects	\$	<del>9,441,000</del>	90957
			<u>9,691,000</u>	

CAP-955	Statewide Development Centers	\$	3,959,000	90958
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Total Statewide and Central Office Projects	\$	<del>13,400,000</del>	90959
		<u>13,650,000</u>	

TOTAL Department of Mental Retardation and 90960

Developmental Disabilities	\$	<del>13,400,000</del>	90961
		<u>13,650,000</u>	

TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND \$ 33,079,012 90962

COMMUNITY ASSISTANCE PROJECTS 90963

The foregoing appropriation item CAP-480, Community 90964  
Assistance Projects, may be used to provide community assistance 90965  
funds for the development, purchase, construction, or renovation 90966  
of facilities for day programs or residential programs that 90967  
provide services to persons eligible for services from the 90968  
Department of Mental Retardation and Developmental Disabilities or 90969  
county boards of mental retardation and developmental 90970  
disabilities. Any funds provided to nonprofit agencies for the 90971  
construction or renovation of facilities for persons eligible for 90972  
services from the Department of Mental Retardation and 90973

Developmental Disabilities and county boards of mental retardation 90974  
and developmental disabilities shall be governed by the prevailing 90975  
wage provisions in section 176.05 of the Revised Code. 90976

Of the foregoing appropriation item CAP-480, Community 90977  
Assistance Projects, \$150,000 shall be used for the Fostoria Area 90978  
Community Childhood and Family Center; ~~\$250,000 shall be used for~~ 90979  
~~the Berea Children's Home; and~~ \$1,000,000 shall be used for the 90980  
Bellefaire Jewish Children's Bureau; and \$500,000 shall be used 90981  
for the Achievement Centers for Children in Cuyahoga County. 90982

Appropriations

**Sec. 19.39.** BTC BELMONT ~~TECHNICAL~~ COMMUNITY COLLEGE 90983  
CAP-008 Basic Renovations \$ 214,638 90984  
Total Belmont ~~Technical~~ Community College \$ 214,638 90985

**Sec. 19.52.** The requirements of Chapters 123. and 153. of the 90987  
Revised Code, with respect to the powers and duties of the 90988  
Director of Administrative Services, and the requirements of 90989  
section 127.16 of the Revised Code, with respect to the 90990  
Controlling Board, shall not apply to projects of community 90991  
college districts, which include Belmont Community College, 90992  
Cuyahoga Community College, Jefferson Community College, Lakeland 90993  
Community College, Lorain County Community College, Rio Grande 90994  
Community College, and Sinclair Community College; and technical 90995  
college districts which include ~~Belmont Technical College,~~ Central 90996  
Ohio Technical College, Hocking Technical College, Lima Technical 90997  
College, Marion Technical College, Muskingum Area Technical 90998  
College, North Central Technical College, and Stark Technical 90999  
College. 91000

**Section 131F.** That existing Sections 18.03, 18.04, 19.39, and 91001  
19.52 of H.B. 675 of the 124th General Assembly are hereby 91002  
repealed. 91003

**Section 131G.** That Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly be amended to read as follows:

**Sec. 3.** Sections ~~5739.021, 5739.023, 5739.026,~~ 5739.03, ~~5739.031, 5739.033,~~ 5739.12, 5741.02, and 5741.12, and division (I)(7) of section 5741.01 of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, and sections 306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 5741.08 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect July 1, 2003. Sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code, as amended by Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect January 1, 2004.

**Section 131H.** That existing Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly is hereby repealed.

**Section 131I.** The amendment by this act of Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

**Section 131J.** The amendments to sections 5739.021, 5739.023, and 5739.026 of the Revised Code by Am. Sub. S.B. 143 of the 124th General Assembly apply to levies proposed by a resolution adopted on or after January 1, 2004, and do not apply to levies proposed by a resolution adopted before that date.

**Section 131K.** Sections 131G, 131H, 131I, and 131J of this act intend to delay the scheduled July 1, 2003, effective date of

sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of 91031  
the Revised Code until January 1, 2004. 91032

**Section 132.01.** That Sections 10 and 14 of Am. Sub. S.B. 242 91033  
of the 124th General Assembly be amended to read as follows: 91034

**Sec. 10.** NET SCHOOLNET COMMISSION 91035

Tobacco Master Settlement Agreement Fund Group 91036

S87 228-602 Education Technology \$ 16,500,000 \$ 16,500,000 91037

Trust Fund

TOTAL TSF Tobacco Master 91038

Settlement Agreement Fund 91039

Group \$ 16,500,000 \$ 16,500,000 91040

TOTAL ALL BUDGET FUND GROUPS \$ 16,500,000 \$ 16,500,000 91041

EDUCATION TECHNOLOGY TRUST FUND 91042

The foregoing appropriation item 228-602, Education 91043  
Technology Trust Fund, shall be used by the SchoolNet Commission 91044  
for grants to school districts and other entities and for the 91045  
costs of administering these grants. Of the total amount for 91046  
grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio 91047  
ONEnet project, \$909,247 in fiscal year 2003 shall be used for the 91048  
INFOhio Network, \$298,750 in fiscal year 2003 shall be used for 91049  
the JASON Project, \$1,000,000 in fiscal year 2003 shall be used 91050  
for RISE Learning Solutions, and \$200,000 in fiscal year 2003 91051  
shall be used for the Stark County School Teacher Technical 91052  
Training Center. The remaining amount for grants shall be made to 91053  
school districts. 91054

The JASON Project shall provide funding for statewide access 91055  
and a seventy-five per cent subsidy for statewide licensing of 91056  
JASON content for 90,000 middle school students statewide, and 91057  
professional development for teachers participating in the JASON 91058  
Project. 91059

It is the intent of the General Assembly that the SchoolNet 91060  
Commission, in conjunction with RISE Learning Solutions, shall 91061  
develop a program that may be conducted in conjunction with 91062  
state-supported technology programs, including, but not limited 91063  
to, SchoolNet Commission appropriation item 228-406, Technical and 91064  
Instructional Professional Development, and appropriation item 91065  
228-539, Education Technology, and that shall be designed to 91066  
educate preschool staff members and providers on developmentally 91067  
appropriate teaching methods, behavior guidance, and literacy and 91068  
to involve parents more closely in the education and development 91069  
of their children. The program shall include an interactive 91070  
instructional component, delivered using satellite television, 91071  
Internet, and with facilitation, and shall be distributed to 91072  
program participants using the established satellite receiver 91073  
dishes on public schools, Head Start centers, and childcare 91074  
centers at up to 100 locations throughout the state. The 91075  
interactive instructional component of the program shall be 91076  
developed to enhance the professional development, training, and 91077  
performance of preschool staff members, the education and 91078  
care-giving skills of the parents of preschool children, and the 91079  
preparation of preschool-age children for learning. 91080

The program shall utilize the grant to continue a 91081  
direct-service component that shall include at least three 91082  
teleconferences that may be distributed by Ohio-based public 91083  
television utilizing satellite or microwave technology in a manner 91084  
designed to promote interactive communications between the program 91085  
participants located at subsites within the Ohio Educational 91086  
Broadcast Network or as determined by the commission. Program 91087  
participants shall communicate with trainers and participants at 91088  
other program sites through telecommunications and facsimile and 91089  
on-line computer technology. As much as possible, the 91090  
direct-service component shall utilize systems currently available 91091

in state-supported technology programs and conduct the component 91092  
in a manner that promotes innovative, interactive communications 91093  
between program participants at all the sites. Parent support 91094  
groups and teacher training sessions shall supplement the 91095  
teleconferences and shall occur on a local basis. 91096

RISE Learning Solutions may subcontract components of the 91097  
program. 91098

Individuals eligible to participate in the program include 91099  
those children, their parents, custodians, or guardians, and 91100  
preschool staff members who are eligible to participate in a 91101  
preschool program as defined in division (A) of section 3301.52 91102  
and section 5104.02 of the Revised Code. 91103

The components of the program, including two that shall be 91104  
developed in support of teacher proficiency in teaching reading to 91105  
prekindergarten and kindergarten to third grade students, at the 91106  
direction of the Department of Education, may include: two 91107  
three-hour broadcast seminars from a central up-link station, 91108  
distributed in up to 88 counties; high production-value video 91109  
sought in various locations; and direct interactive adult learning 91110  
activities. These two components shall include development of 91111  
workbooks and involve at least three small, group-facilitated 91112  
follow-up discussion workshops and development and distribution of 91113  
at least two home videos. The program shall also provide Internet 91114  
access, interactive lines, bulletin board, and CD-ROM. 91115

Upon completion of each of the school years for which the 91116  
grant was made, RISE Learning Solutions shall issue a report to 91117  
the commission and members of the General Assembly explaining the 91118  
goals and objectives determined, the activities implemented, the 91119  
progress made toward the achievement of the goals and objectives, 91120  
and the outcome of the program. 91121

The commission shall use the remaining appropriation 91122

authority in fiscal year 2003 and appropriation authority granted 91123  
in fiscal year 2004 to establish and equip, through the SchoolNet 91124  
Plus Program, at least one interactive computer station for each 91125  
five children enrolled in the sixth grade as determined by a 91126  
three-year average adjusted per pupil property valuation pursuant 91127  
to division (A) of section 3317.03 of the Revised Code. Districts 91128  
in the first two quartiles of wealth shall receive up to \$380 per 91129  
pupil for students in grade six to purchase classroom computers 91130  
for the sixth grade. Districts in the third and fourth quartile 91131  
shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a 91132  
district has met the state's goal of one computer to every five 91133  
students, the district may use funds provided through the 91134  
SchoolNet Plus Program to purchase computers for grade seven or to 91135  
fulfill educational technology needs on other grades as specified 91136  
in the district's technology plan. When there is at least one 91137  
computer for each five children enrolled in the sixth grade, 91138  
SchoolNet shall use any remaining funds appropriated to establish 91139  
and equip at least one interactive computer workstation for each 91140  
five children enrolled in the seventh grade as determined by the 91141  
previously defined formula. 91142

**Sec. 14.** All items set forth in this section are hereby 91143  
appropriated out of any moneys in the state treasury to the credit 91144  
of the Education Facilities Trust Fund (Fund N87) that are not 91145  
otherwise appropriated. 91146

		Appropriations	
SFC SCHOOL FACILITIES COMMISSION			91147
CAP-780	Classroom Facilities Assistance Program	\$ <del>148,400,000</del>	91148
		<u>25,600,000</u>	
Total School Facilities Commission		\$ <del>148,400,000</del>	91149
		<u>25,600,000</u>	
TOTAL Education Facilities Trust Fund		\$ <del>148,400,000</del>	91150
		<u>25,600,000</u>	

**Section 132.02.** That existing Sections 10 and 14 of Am. Sub. 91152  
S.B. 242 of the 124th General Assembly is hereby repealed. 91153

**Section 132.02A.** That Section 24.43 of Am. Sub. H.B. 524 of 91154  
the 124th General Assembly be amended to read as follows: 91155

Reappropriations

<b>Sec. 24.43.</b> BTC BELMONT <del>TECHNICAL</del> <u>COMMUNITY</u> COLLEGE			91156
CAP-008 Basic Renovations	\$	653,372	91157
CAP-014 Main Building Renovation - Phase 3	\$	49,137	91158
CAP-019 ADA Modifications	\$	45,915	91159
Total Belmont <del>Technical</del> <u>Community</u> College	\$	748,424	91160

**Section 132.02B.** That existing Section 24.43 of Am. Sub. H.B. 91162  
524 of the 124th General Assembly is hereby repealed. 91163

**Section 132.03.** That Section 3 of Am. Sub. H.B. 215 of the 91164  
122nd General Assembly, as most recently amended by Am. Sub. H.B. 91165  
94 of the 124th General Assembly, be amended to read as follows: 91166

**Sec. 3.** Section 1751.68 of the Revised Code is hereby 91167  
repealed, effective October 16, ~~2003~~ 2005. 91168

**Section 132.04.** That existing Section 3 of Am. Sub. H.B. 215 91169  
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 132.05.** \* That Section 3 of Am. Sub. H.B. 621 of the 91172  
122nd 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. 3.** That sections 166.031, 901.80, 901.81, 901.82, and 91175  
901.83 of the Revised Code are hereby repealed, effective ~~July 1,~~ 91176

<del>2003</del> <u>October 15, 2005.</u>	91177
<b>Section 132.06.</b> * That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.	91178 91179 91180
<b>Section 132.07.</b> That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:	91181 91182 91183
<b>Sec. 153.</b> (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, <del>2003</del> <u>2005</u> .	91184 91185 91186 91187
(B) Any money remaining in the Legislative Budget Services Fund on October 16, <del>2003</del> <u>2005</u> , the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.	91188 91189 91190 91191 91192 91193 91194 91195
<b>Section 132.08.</b> That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.	91196 91197 91198
<b>Section 132.09.</b> * That Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, be amended to read as follows:	91199 91200 91201
<b>Sec. 27.</b> The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall	91202 91203

expire on December 31, 2004:		91204
	REVISED CODE	91205
	OR	
	<del>UNCODIFIED</del>	91206
	<u>UNCODIFIED</u>	
AGENCY NAME	SECTION	91207
Advisory Council on Amusement Ride Safety	1711.51	91208
Advisory Board of Directors for Prison Labor	5145.162	91209
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA	91210
Apprenticeship Council	4111.26	91211
Armory Board of Control	5911.09	91212
Banking Commission	1123.01	91213
Board of Voting Machine Examiners	3506.05(B)	91214
Board of Governors, Medical Malpractice Joint Underwriting Association	3929.77	91215
Board of Tax Appeals	5703.02	91216
Brain Injury Advisory Committee <del>Committee</del>	3304.231 <del>3304.231</del>	91217
Capitol Square Review and Advisory Board	105.41	91218
Child Support Guideline Advisory Council	3113.215(G)	91219
Children's Trust Fund Board	3109.15	91220
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	91221
Citizen's Advisory Council (Dept. of Mental Health)	5119.81	91222
<del>Civilian Conservation Advisory Committee</del>	<del>1553.10</del>	91223
Coastal Resources Advisory Council	1506.12	91224
Commission on African-American Males	4112.12	91225
Commission on Hispanic-Latino Affairs	121.31	91226
Commodity Advisory Commission	926.32	91227
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	91228

Continuing Education Committee (for sheriffs)	109.80	91229
Controlling Board	127.12	91230
Council on Alcohol and Drug Addiction Services	3793.09	91231
Council on Unreclaimed Strip Mine Lands	1513.29	91232
County Sheriffs' Standard Car Marking and Uniform Commission	311.25	91233
Criminal Sentencing Advisory Committee	181.22	91234
Day-Care Advisory Council	5104.08	91235
Development Financing Advisory Council	122.40	91236
Electrical Safety Inspector Advisory Committee	3783.08	91237
Engineering Experiment Station Advisory Committee	3335.27	91238
Environmental Review Appeals Commission	3745.02	91239
Environmental Education Council	3745.21	91240
Forestry Advisory Council	1503.40	91241
Governor's Community Service Council	121.40	91242
Governor's Council on People with Disabilities	3303.41	91243
<del>Hazardous Waste Facility Board</del>	<del>3734.05</del>	91244
Health Care Quality Advisory Council	4121.442	91245
Health Data Advisory Committee	3729.61	91246
Hemophilia Advisory Council	3701.145	91247
Historic Site Preservation Advisory Board	149.301	91248
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76	91249
Industrial Commission	4121.02	91250
Industrial Commission Nominating Council	4121.04	91251
Industrial Technology and Enterprise Advisory Council	122.29	91252
Insurance Agent Education Advisory Council	3905.483	91253
Interagency Recycling Market Development Workgroup	1502.10	91254
Joint Select Committee on Volume Cap	133.021	91255
Labor-Management Government Advisory Council	4121.70	91256
Legal Rights Service Commission	5123.60	91257

Martha Kinney Cooper Ohioana Library Association Board of Trustees	3375.62	91258
Maternal and Child Health Council	3701.025	91259
<del>Medicaid Long Term Care Reimbursement Study Council</del>	<del>5111.34</del>	91260
Medically Handicapped Children's Medical Advisory Council	3701.025	91261
Milk Sanitation Board	917.03	91262
Mine Subsidence Insurance Governing Board	3929.51	91263
Multi-Agency Radio Communication Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	91264
Multidisciplinary Council	3746.03	91265
National Museum of Afro-American History and Culture Planning Committee	149.303	91266
<u>Nursing Facility Reimbursement Study Council</u>	<u>5111.34</u>	91267
Ohio Advisory Council for the Aging	173.03	91268
Ohio Arts Council	3379.02	91269
Ohio Arts and Sports Facilities Commission	3383.02	91270
Ohio Benefit Systems Data Linkage Committee	125.24	91271
Ohio Bicentennial Commission	149.32	91272
Ohio Cemetery Dispute Resolution Commission	4767.05	91273
<del>Ohio Commission on Dispute Resolution and Conflict Management</del>	<del>179.02</del>	91274
Ohio Educational Telecommunications Network Commission	3353.02	91275
Ohio Ethics Commission	102.05	91276
Ohio Expositions Commission	991.02	91277
Ohio Family and Children First Cabinet Council	121.37	91278
Ohio Geology Advisory Council	1505.11	91279
Ohio Grape Industries Committee	924.51	91280
Ohio Historical Society Board of Trustees	149.30	91281
Ohio Lake Erie Commission	1506.21	91282
Ohio Medical Quality Foundation	3701.89	91283

Ohio Natural Areas Council	1517.03	91284
Ohio Parks and Recreation Council	1541.40	91285
Ohio Peace Officer Training Commission	109.71	91286
Ohio Public Defender Commission	120.01	91287
Ohio Quarter Horse Development Commission	3769.086	91288
Ohio Scenic Rivers Advisory Councils	1517.18	91289
Ohio Small Government Capital Improvements Commission	164.02	91290
Ohio Soil and Water Conservation Commission	1515.02	91291
Ohio Standardbred Development Commission	3769.085	91292
Ohio Steel Industry Advisory Council	122.97	91293
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	91294
Ohio Thoroughbred Racing Advisory Committee	3769.084	91295
Ohio Tuition Trust Authority	3334.03	91296
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	91297
Ohio Vendors Representative Committee	3304.34	91298
Ohio Veterans' Home Board of Trustees	5907.02	91299
Ohio War Orphans Scholarship Board	5910.02	91300
Ohio Water Advisory Council	1521.031	91301
Oil and Gas Commission	1509.35	91302
Organized Crime Investigations Commission	177.01	91303
Parole Board	5149.10	91304
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81	91305
Physical Fitness and Sports Advisory Board	3701.77	91306
Power Siting Board	4906.02	91307
Private Water Systems Advisory Council	3701.346	91308
Public Employment Risk Reduction Advisory Commission	4167.02	91309
Public Utilities Commission Nominating Council	4901.021	91310
Reclamation Commission	1513.05	91311

Recreation and Resources Commission	1501.04	91312
Recycling and Litter Prevention Advisory Council	1502.04	91313
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	91314
Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA	91315
Services Committee of the Workers' Compensation System	4121.06	91316
Set Aside Review Board	123.151(C)(4)	91317
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	91318
Solid Waste Management Advisory Council	3734.51	91319
State Board of Deposit	135.02	91320
State Board of Library Examiners	3375.47	91321
State Council of Uniform State Laws	105.21	91322
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32	91323
State Criminal Sentencing Commission	181.21	91324
State Fire Commission	3737.81	91325
State and Local Government Commission of Ohio	105.45	91326
State Victims Assistance Advisory Committee	109.91	91327
Student Tuition Recovery Authority	3332.081	91328
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55	91329
Submerged Lands Advisory Council	1506.37	91330
Tax Credit Authority	122.17	91331
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35	91332
Technical Advisory Council on Oil and Gas	1509.38	91333
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA	91334

Unemployment Compensation Review Commission	4141.06	91335
Unemployment Compensation Advisory Council	4141.08	91336
Utility Radiological Safety Board	4937.02	91337
Veterans Advisory Committee	5902.02(K)	91338
Water and Sewer Commission	1525.11(C)	91339
Waterways Safety Council	1547.73	91340
Welfare Oversight Council	5101.93	91341
Wildlife Council	1531.03	91342
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA	91343
Wright-Dunbar State Heritage Commission	149.321	91344

**Section 132.10.** \* That existing Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, is hereby repealed.

**Section 132.11.** That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

**Sec. 5.** Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~2003~~ 2005.

**Section 132.12.** That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

**Section 132.12A.** Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly and Am. Sub. S.B. 261 of the 124th General Assembly, is hereby repealed.

**Section 132.12B.** That Section 2 of Am. Sub. H.B. 71 of the

120th General Assembly be amended to read as follows: 91361

**Sec. 2.** Sections ~~1742.42~~, 3901.49, and 3901.50 of the Revised 91362  
Code are hereby repealed, effective ~~ten years after the effective~~ 91363  
~~date of this act~~ February 9, 2014. The repeal of these sections 91364  
shall apply only to contracts and policies that are delivered, 91365  
issued for delivery, or renewed in this state on or after that 91366  
date, and to plans of self-insurance that are established or 91367  
modified in this state on or after that date. 91368

**Section 132.12C.** That existing Section 2 of Am. Sub. H.B. 71 91369  
of the 120th General Assembly is hereby repealed. 91370

**Section 132.12D.** That Section 6 of Am. Sub. S.B. 67 of the 91371  
122nd General Assembly be amended to read as follows: 91372

**Sec. 6.** Section 1751.64 of the Revised Code is hereby 91373  
repealed, effective February 9, ~~2004~~ 2014. The repeal of that 91374  
section shall apply only to contracts that are delivered, issued 91375  
for delivery, or renewed in this state on or after that date. 91376

**Section 132.12E.** That existing Section 6 of Am. Sub. S.B. 67 91377  
of the 122nd General Assembly is hereby repealed. 91378

**Section 132.14.** Section 129 of Am. Sub. H.B. 283 of the 123rd 91379  
General Assembly as amended by Am. Sub. H.B. 94 of the 124th 91380  
General Assembly is hereby repealed. 91381

**Section 132.14B.** Section 16 of Am. Sub. H.B. 87 of the 125th 91382  
General Assembly is hereby repealed. 91383

**Section 132.14C.** \* (A) Section 3 of Am. Sub. S.B. 272 of the 91384  
123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 91385  
123rd General Assembly, is hereby repealed. 91386

(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 sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of the Revised Code. This intent is not affected by the rule of statutory interpretation contained in section 1.57 of the Revised

Code. 91417

**Section 132.18.** That Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly is hereby repealed. 91418  
91419

**Section 133.** TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT AGREEMENT FUND TO THE GENERAL REVENUE FUND 91420  
91421

Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2004, the Director of Budget and Management may transfer up to \$242,800,000 to the General Revenue Fund from the Tobacco Master Settlement Agreement Fund (Fund 087), as provided in divisions (A) and (B) of this section: 91422  
91423  
91424  
91425  
91426

(A) Up to \$120,000,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division. 91427  
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(B) Up to \$122,800,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the 91439  
91440  
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Tobacco Master Settlement Agreement Fund to the Education 91447  
Facilities Trust Fund shall be reduced by the amount that is 91448  
transferred from the Tobacco Master Settlement Agreement Fund to 91449  
the General Revenue Fund in accordance with this division. 91450

**Section 134.** TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT 91451  
DISTRIBUTIONS 91452

(A) On or before the seventh day of each month of the period 91453  
July 2003 through June 2005, the Tax Commissioner shall determine 91454  
and certify to the Director of Budget and Management the amount to 91455  
be credited, by tax, during that month to the Local Government 91456  
Fund, to the Library and Local Government Support Fund, and to the 91457  
Local Government Revenue Assistance Fund, respectively, pursuant 91458  
to divisions (B), (C), and (D) of this section. 91459

(B) Notwithstanding section 5727.84 of the Revised Code to 91460  
the contrary, for the period July 1, 2003, through June 30, 2005, 91461  
no amounts shall be credited to the Local Government Fund or to 91462  
the Local Government Revenue Assistance Fund from the kilowatt 91463  
hour tax, and such amounts that would have otherwise been required 91464  
to be credited to such funds shall instead be credited to the 91465  
General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 91466  
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 91467  
for each month in the period July 1, 2003, through June 30, 2005, 91468  
from the public utility excise, corporate franchise, sales, use, 91469  
and personal income taxes collected; 91470

(1) An amount shall first be credited to the Local Government 91471  
Fund that equals the amount credited to that fund from that tax 91472  
according to the schedule in division (C) of this section. 91473

(2) An amount shall next be credited to the Local Government 91474  
Revenue Assistance Fund that equals the amount credited to that 91475  
fund from that tax according to the schedule in division (C) of 91476  
this section. 91477

(3) An amount shall next be credited to the Library and Local Government Support Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2004 pursuant to division (C) of this section, the amount credited in fiscal year 2003 shall be before the transfer made from the Library and Local Government Support Fund to the OPLIN Technology Fund under Section 70 of Am. Sub. H.B. 94 of the 124th General Assembly. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2005 pursuant to division (C) of this section, the amount credited in fiscal year 2004 shall be before any transfer required to be made from the Library and Local Government Support Fund to the OPLIN Technology Fund.

(C) The amounts shall be credited from each tax to each respective fund as follows:

(1) In July 2003, one hundred per cent of the amount credited in July 2002; in July 2004, one hundred per cent of the amount credited in July 2003;

(2) In August 2003, one hundred per cent of the amount credited in August 2002; in August 2004, one hundred per cent of the amount credited in August 2003;

(3) In September 2003, one hundred per cent of the amount credited in September 2002; in September 2004, one hundred per cent of the amount credited in September 2003;

(4) In October 2003, one hundred per cent of the amount credited in October 2002; in October 2004, one hundred per cent of the amount credited in October 2003;

(5) In November 2003, one hundred per cent of the amount

credited in November 2002; in November 2004, one hundred per cent 91509  
of the amount credited in November 2003; 91510

(6) In December 2003, one hundred per cent of the amount 91511  
credited in December 2002; in December 2004, one hundred per cent 91512  
of the amount credited in December 2003; 91513

(7) In January 2004, one hundred per cent of the amount 91514  
credited in January 2003; in January 2005, one hundred per cent of 91515  
the amount credited in January 2004; 91516

(8) In February 2004, one hundred per cent of the amount 91517  
credited in February 2003; in February 2005, one hundred per cent 91518  
of the amount credited in February 2004; 91519

(9) In March 2004, one hundred per cent of the amount 91520  
credited in March 2003; in March 2005, one hundred per cent of the 91521  
amount credited in March 2004; 91522

(10) In April 2004, one hundred per cent of the amount 91523  
credited in April 2003; in April 2005, one hundred per cent of the 91524  
amount credited in April 2004; 91525

(11) In May 2004, one hundred per cent of the amount in 91526  
division (C)(11)(a) of this section; in May 2005, one hundred per 91527  
cent of the amount in division (C)(11)(b) of this section; 91528

(a) The amount credited in May 2003, less any amount reduced 91529  
pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of 91530  
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 91531  
124th General Assembly and as amended by Am. Sub. H.B. 390 of the 91532  
124th General Assembly; 91533

(b) The amount credited in May 2004. 91534

(12) In June 2004, one hundred per cent of the amount in 91535  
division (C)(12)(a) of this section, less any reduction required 91536  
under division (D)(1) of this section; in June 2005, one hundred 91537  
per cent of the amount in division (C)(12)(b) of this section, 91538

less any reduction required under division (D)(2) of this section; 91539

(a) The amount credited in June 2003 before any reduction 91540  
made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 91541  
94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 91542  
of the 124th General Assembly and as amended by Am. Sub. H.B. 390 91543  
of the 124th General Assembly; 91544

(b) The amount credited in June 2004. 91545

(D) The Tax Commissioner shall do each of the following: 91546

(1) By June 7, 2004, the commissioner shall subtract the 91547  
amount calculated in division (D)(1)(b) of this section from the 91548  
amount calculated in division (D)(1)(a) of this section. If the 91549  
amount in division (D)(1)(a) of this section is greater than the 91550  
amount in division (D)(1)(b) of this section, then such difference 91551  
shall be subtracted from the total amount of income tax revenue 91552  
credited to the Local Government Fund, the Local Government 91553  
Revenue Assistance Fund, and the Library and Local Government 91554  
Support Fund in June 2004. An amount shall be subtracted from 91555  
income tax revenue credited to the Local Government Fund, the 91556  
Local Government Revenue Assistance Fund, or the Library and Local 91557  
Government Support Fund only if, and according to the proportion 91558  
by which, such fund contributed to the result that the amount in 91559  
division (D)(1)(a) of this section exceeds the amount in division 91560  
(D)(1)(b) of this section. 91561

(a) The sum of all money credited to the Local Government 91562  
Fund, the Local Government Revenue Assistance Fund, and the 91563  
Library and Local Government Support Fund from July 2003 through 91564  
May 2004; 91565

(b) The sum of all money that would have been credited to the 91566  
Local Government Fund, the Local Government Revenue Assistance 91567  
Fund, and the Library and Local Government Support Fund from July 91568  
2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 91569

5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 91570  
during this period. 91571

(2) By June 7, 2005, the commissioner shall subtract the 91572  
amount calculated in division (D)(2)(b) of this section from the 91573  
amount calculated in division (D)(2)(a) of this section. If the 91574  
amount in division (D)(2)(a) of this section is greater than the 91575  
amount in division (D)(2)(b) of this section, then such difference 91576  
shall be subtracted from the total amount of income tax revenue 91577  
credited to the Local Government Fund, the Local Government 91578  
Revenue Assistance Fund, and the Library and Local Government 91579  
Support Fund in June 2005. An amount shall be subtracted from 91580  
income tax revenue credited to the Local Government Fund, the 91581  
Local Government Revenue Assistance Fund, or the Library and Local 91582  
Government Support Fund only if, and according to the proportion 91583  
by which, such fund contributed to the result that the amount in 91584  
division (D)(2)(a) of this section exceeds the amount in division 91585  
(D)(2)(b) of this section. 91586

(a) The sum of all money credited to the Local Government 91587  
Fund, the Local Government Revenue Assistance Fund, and the 91588  
Library and Local Government Support Fund from June 2004 through 91589  
May 2005; 91590

(b) The sum of all money that would have been credited to the 91591  
Local Government Fund, the Local Government Revenue Assistance 91592  
Fund, and the Library and Local Government Support Fund from June 91593  
2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 91594  
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 91595  
during this period. 91596

(3) On the advice of the Tax Commissioner, during any month 91597  
other than June 2004 or June 2005 of the period July 1, 2003, 91598  
through July 31, 2005, the Director of Budget and Management may 91599  
reduce the amounts that are to be otherwise credited to the Local 91600  
Government Fund, Local Government Revenue Assistance Fund, or 91601

Library and Local Government Support Fund in order to accomplish 91602  
more effectively the purposes of the adjustments in divisions 91603  
(D)(1) and (2) of this section. If the respective calculations 91604  
made in June 2004 and June 2005 pursuant to divisions (D)(1) and 91605  
(2) of this section indicate that excess reductions had been made 91606  
during the previous months, such excess amounts shall be credited, 91607  
as appropriate, to the Local Government Fund, Local Government 91608  
Revenue Assistance Fund, and Library and Local Government Support 91609  
Fund. 91610

(E) Notwithstanding any other provision of law to the 91611  
contrary, the total amount credited to each fund in each month 91612  
during the period July 2003 through June 2005 shall be distributed 91613  
by the tenth day of the immediately succeeding month in the 91614  
following manner: 91615

(1) Each county undivided local government fund shall receive 91616  
a distribution from the Local Government Fund based on its 91617  
proportionate share of the total amount received from the fund in 91618  
such respective month for the period July 1, 2002, through June 91619  
30, 2003. 91620

(2) Each municipality receiving a direct distribution from 91621  
the Local Government Fund shall receive a distribution based on 91622  
its proportionate share of the total amount received from the fund 91623  
in such respective month for the period July 1, 2002, through June 91624  
30, 2003. 91625

(3) Each county undivided local government revenue assistance 91626  
fund shall receive a distribution from the Local Government 91627  
Revenue Assistance Fund based on its proportionate share of the 91628  
total amount received from the fund in such respective month for 91629  
the period July 1, 2002, through June 30, 2003. 91630

(4) Each county undivided library and local government 91631  
support fund shall receive a distribution from the Library and 91632

Local Government Support Fund based on its proportionate share of 91633  
the total amount received from the fund in such respective month 91634  
for the period July 1, 2002, through June 30, 2003. 91635

(F) For the 2003, 2004, and 2005 distribution years, the Tax 91636  
Commissioner is not required to issue the certifications otherwise 91637  
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 91638  
the Revised Code, but shall provide to each county auditor by the 91639  
twentieth day of July 2003, July 2004, and July 2005 an estimate 91640  
of the amounts to be received by the county in the ensuing year 91641  
from the Local Government Fund, Local Government Revenue 91642  
Assistance Fund, and Library and Local Government Support Fund 91643  
pursuant to this section and any pertinent section of the Revised 91644  
Code. The Tax Commissioner may choose to report to each county 91645  
auditor a revised estimate of the 2003, 2004, or 2005 91646  
distributions at any time during the period July 1, 2003, through 91647  
July 31, 2005. 91648

(G) If provisions of H.B. 40 of the 125th General Assembly 91649  
are enacted that authorize reductions in the amounts credited to 91650  
the Local Government Fund, Local Government Revenue Assistance 91651  
Fund, and Library and Local Government Support Fund during fiscal 91652  
year 2003, the fiscal year 2003 amounts used in determining the 91653  
amounts credited to such funds during fiscal year 2004 pursuant to 91654  
division (C) of this section shall be before any such reductions. 91655

(H) During the period July 1, 2003, through July 31, 2005, 91656  
the Director of Budget and Management shall issue those directives 91657  
to state agencies that are necessary to ensure that the 91658  
appropriate amounts are distributed to the Local Government Fund, 91659  
to the Local Government Revenue Assistance Fund, and to the 91660  
Library and Local Government Support Fund. 91661

**Section 136.** \* CAPITAL APPROPRIATION TO SFC 91662

All items set forth in this section are hereby appropriated 91663

out of any moneys in the state treasury to the credit of the 91664  
School Building Program Assistance Fund (Fund 032), created under 91665  
section 3318.25 of the Revised Code, derived from the proceeds of 91666  
obligations heretofore and herein authorized to pay the cost of 91667  
facilities for a system of common schools throughout the state for 91668  
the period beginning July 1, 2002, and ending June 30, 2004. The 91669  
appropriation shall be in addition to any other appropriation for 91670  
this purpose. 91671

Appropriations

SFC SCHOOL FACILITIES COMMISSION			91672
CAP-770	School Building Program Assistance	\$ 122,800,000	91673
Total School Facilities Commission			\$ 122,800,000 91674
TOTAL School Building Program Assistance Fund			\$ 122,800,000 91675

\* SCHOOL BUILDING PROGRAM ASSISTANCE 91676

The foregoing appropriation item CAP-770, School Building 91677  
Program Assistance, shall be used by the School Facilities 91678  
Commission to provide funding to school districts that receive 91679  
conditional approval from the Commission pursuant to Chapter 3318. 91680  
of the Revised Code. Expenditures from appropriations contained in 91681  
this section may be accounted for as though made for the fiscal 91682  
year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. 91683  
The School Facilities Commission shall not disburse any of the 91684  
appropriations made in this section until after April 1, 2004. 91685

\* BOND ISSUANCE AUTHORITY 91686

The Ohio Public Facilities Commission is hereby authorized to 91687  
issue and sell, in accordance with the provisions of Section 2n of 91688  
Article VIII, Ohio Constitution, and Chapter 151. and particularly 91689  
sections 151.01 and 151.03 of the Revised Code, original 91690  
obligations in an aggregate principal amount not to exceed 91691  
\$123,000,000, in addition to the original issuance of obligations 91692  
heretofore authorized by prior acts of the General Assembly. The 91693  
authorized obligations shall be issued, subject to applicable 91694

constitutional and statutory limitations, to pay the costs to the 91695  
state of previously authorized capital facilities and the capital 91696  
facilities authorized in this section for the School Building 91697  
Program Assistance Fund pursuant to Chapter 3318. of the Revised 91698  
Code. 91699

**Section 136A.** (A) On the effective date of this section, the 91700  
following programs administered by the Ohio School Facilities 91701  
Commission are terminated: 91702

(1) The Short-Term Loan Program established by Section 10.01 91703  
of Am. Sub. H.B. 282 of the 123rd General Assembly; 91704

(2) The Emergency School Repair Program codified in section 91705  
3318.35 of the Revised Code. 91706

No new school district shall be served under any of these 91707  
programs. The Commission may continue serving school districts 91708  
that were receiving assistance under any of these programs before 91709  
the effective date of this section in accordance with terms and 91710  
agreements in effect on that date. 91711

(B) On March 31, 2004, the Disability Access Program 91712  
established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd 91713  
General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd 91714  
General Assembly, as subsequently amended, Section 10 of Am. Sub. 91715  
H.B. 282 of the 123rd General Assembly, as subsequently amended, 91716  
Section 102.01 of Am. Sub. H.B. 94 of the 124th General Assembly, 91717  
and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly 91718  
is terminated. 91719

No new school district shall be served under this program. 91720  
The Commission may continue serving school districts that were 91721  
receiving assistance under this program before the effective date 91722  
of this section in accordance with terms and agreements in effect 91723  
on that date. 91724

On April 1, 2004, or as soon as possible thereafter, the 91725  
Director of Budget and Management shall transfer the unencumbered 91726  
and unallotted balance in appropriation item CAP-777, Disability 91727  
Access Projects, to appropriation item CAP-662, Public School 91728  
Buildings. The amount transferred from CAP-777, Disability Access 91729  
Projects, shall be used to fund classroom facilities projects in 91730  
accordance with Chapter 3318. of the Revised Code. 91731

**Section 137C. OFFICE OF QUALITY SERVICES FUND TRANSFERS** 91732

Notwithstanding any other provision of law to the contrary, 91733  
the Director of Budget and Management shall transfer any remaining 91734  
amounts of cash from the following specified obsolete fund to the 91735  
General Revenue Fund within thirty days after the effective date 91736  
of this section: Quality Services (General Services Fund 4C1). The 91737  
amount of such transfer to the General Revenue Fund is hereby 91738  
appropriated to General Revenue Fund appropriation item 042-409, 91739  
Commission Closures. 91740

**Section 137D. TRANSFER FROM BOARD OF TAX APPEALS** 91741

Notwithstanding any other provision of law to the contrary, 91742  
on July 31, 2003, or as soon thereafter as possible, the Director 91743  
of Budget and Management shall transfer any remaining amounts of 91744  
cash from the following specified obsolete fund to the General 91745  
Revenue Fund: Reproduction of Decisions (General Services Fund 91746  
439). 91747

**Section 137E. FEDERAL JOBS AND GROWTH TAX RELIEF** 91748  
RECONCILIATION ACT OF 2003 91749

(A)The Director of Budget and Management shall allocate as 91750  
follows any Medicaid moneys received under of the provision of the 91751  
federal Jobs and Growth Tax Relief Reconciliation Act of 2003 that 91752  
increases the federal medical assistance percentage for the third 91753

and fourth calendar quarters of federal fiscal year 2003 and the 91754  
first, second, and third calendar quarters of federal fiscal year 91755  
2004: 91756

(1) First, to the Department of Job and Family Services to 91757  
provide Medicaid coverage to parents up to 100 per cent of the 91758  
federal poverty guideline in accordance with section 5111.019 of 91759  
the Revised Code. Any funds allocated to the Department of Job and 91760  
Family Services for this purpose pursuant to this section are 91761  
hereby appropriated. 91762

(2) Then, any remainder shall be transferred to the Family 91763  
Services Stabilization Fund created under section 131.41 of the 91764  
Revised Code. 91765

(B)The Director of Budget and Management shall transfer to 91766  
the Budget Stabilization Fund (Fund 013) any moneys received under 91767  
the provision of the federal Jobs and Growth Tax Relief 91768  
Reconciliation Act of 2003 that provides temporary state fiscal 91769  
relief in federal fiscal years 2003 and 2004 to (1) provide 91770  
essential government services and (2) cover the costs to states of 91771  
complying with federal intergovernmental mandates. 91772

**Section 137F.** (A) In September of 2003, each school district 91773  
that has been declared to be under an academic watch or in a state 91774  
of academic emergency pursuant to section 3302.03 of the Revised 91775  
Code shall administer a half-length practice version of each Ohio 91776  
Graduation Test prescribed by division (B) of section 3301.0710 of 91777  
the Revised Code to all ninth grade students enrolled in the 91778  
district. Each district shall determine the dates, times, and 91779  
method of administering the tests to students and shall score the 91780  
tests. 91781

(B) Each district declared to be in a state of academic 91782  
emergency pursuant to section 3302.03 of the Revised Code shall 91783  
determine for each high school in the district whether the school 91784

shall be required to provide intervention services in accordance 91785  
with this division to any students who took the tests. In 91786  
determining which high schools shall provide intervention services 91787  
based upon available funding, the district shall consider each 91788  
school's graduation rate and scores on the practice tests. 91789

Each high school selected to provide intervention services 91790  
under this division shall provide intervention services to 91791  
students whose practice test results indicate that they are 91792  
failing to make satisfactory progress toward being able to attain 91793  
scores at the proficient level on the Ohio Graduation Tests. 91794  
Intervention services shall be provided in any skill in which a 91795  
student demonstrates unsatisfactory progress and shall be 91796  
commensurate with the student's test performance. Schools shall 91797  
provide the intervention services prior to the end of the school 91798  
year, during the summer following the ninth grade, in the next 91799  
succeeding school year, or at any combination of those times. 91800

**Section 138.** (A) As used in this section, "nursing facility" 91801  
means a facility, or a distinct part of a facility, that is 91802  
certified as a nursing facility by the Director of Health for 91803  
purposes of the Medicaid Program and is not an intermediate care 91804  
facility for the mentally retarded. "Nursing facility" includes a 91805  
facility, or a distinct part of a facility, that is certified as a 91806  
skilled nursing facility by the Director of Health for purposes of 91807  
the Medicare Program. 91808

(B) The Director of Health shall request from the Secretary 91809  
of the United States Department of Health and Human Services 91810  
approval to develop an alternative regulatory procedure for 91811  
nursing facilities subject to federal regulation. If the Secretary 91812  
gives approval, the Director shall convene the Nursing Facility 91813  
Regulatory Reform Task Force. 91814

(C) The Director of Health shall serve as chair of the Task 91815

Force. The Director of Aging, the Director of Job and Family 91816  
Services, the State Long-Term Care Ombudsman, or persons they 91817  
designate and a member of the Governor's staff designated by the 91818  
Governor shall serve on the Task Force. The Director of Health 91819  
shall appoint the following individuals to serve on the Task 91820  
Force: 91821

(1) Two representatives of the Ohio Health Care Association; 91822

(2) Two representatives of the Association of Ohio 91823  
Philanthropic Homes and Housing for the Aging; 91824

(3) Two representatives of the Ohio Academy of Nursing Homes; 91825

(4) Two representatives of the American Association of 91826  
Retired Persons (AARP); 91827

(5) Two representatives of Families for Improved Care; 91828

(6) A representative from the Ohio Association of Regional 91829  
Long-Term Care Ombudsman Programs; 91830

(7) A representative of the 1199 League of Registered Nurses; 91831

(8) A representative of the American Federation of State, 91832  
County, and Municipal Employees. 91833

(D) Except to the extent that service on the task force is 91834  
part of their employment, Task Force members shall serve without 91835  
compensation and shall not be reimbursed by the State for expenses 91836  
incurred in carrying out their duties on the Task Force. The 91837  
Scripps Gerontology Center at Miami University shall provide 91838  
technical and support services for the Task Force. 91839

(E) The Task Force shall do all of the following: 91840

(1) Review the effectiveness of current regulatory procedures 91841  
for nursing facilities regarding the quality of care and quality 91842  
of life of nursing facility residents; 91843

(2) Develop recommendations for improved regulatory 91844

procedures for nursing facilities to improve the quality of care 91845  
and quality of life of nursing facility residents; 91846

(3) Evaluate potential effects on nursing facility residents 91847  
of elimination of components of the Certificate of Need program 91848  
pertaining to long-term care facilities; 91849

(4) Develop possible demonstration projects to present the 91850  
potential of proposed changes to the regulatory procedure to 91851  
increase the quality of care and the quality of life of nursing 91852  
facility residents. 91853

(F) The Task Force shall submit a report of its findings and 91854  
recommendations to the Speaker and Minority Leader of the House of 91855  
Representatives and to the President and Minority Leader of the 91856  
Senate. The report shall explain any changes to the Revised Code 91857  
required to implement the recommendations. On submission of the 91858  
recommendations, the Task Force shall cease to exist. 91859

(G) At the request of the General Assembly by adoption of a 91860  
joint resolution, the Director of Health shall apply to the 91861  
Secretary of the United States Department of Health and Human 91862  
Services for a waiver to implement the recommendations of the Task 91863  
Force. 91864

**Section 139.01.** 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 the provisions of this act are 91869  
general laws created in the exercise of the state's police power, 91870  
arising out of matters of statewide concern, and are designed for 91871  
the health, safety, and welfare of contractors, their employees, 91872  
and the public. 91873

**Section 139.02.** In amending sections 121.084, 4104.41, 91874

4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 91875  
4104.46 and section 4104.47, and in repealing and re-enacting 91876  
sections 4104.42 and 4104.43 of the Revised Code, it is the intent 91877  
of the General Assembly that power, refrigerating, hydraulic, 91878  
heating and liquefied petroleum gas, oxygen, and other gaseous 91879  
piping systems will continue to be inspected as part of the 91880  
building permit process, enforcement of plumbing and mechanical 91881  
building codes, and occupancy certification. The purpose of this 91882  
legislative action is solely to eliminate duplicative inspection 91883  
personnel and fees. 91884

**Section 145.01.** \* The Hemophilia Advisory Council established 91885  
under section 3701.145 of the Revised Code, renumbered as section 91886  
3701.0210 of the Revised Code by this act, is hereby abolished. 91887

**Section 145.03.** \* Upon the taking effect of this section, the 91888  
Hazardous Waste Facility Board is abolished. 91889

All of the rules adopted by the Hazardous Waste Facility 91890  
Board are abolished on that date. The Director of the Legislative 91891  
Service Commission shall remove the rules from the Administrative 91892  
Code as if they had been rescinded. 91893

On and after the effective date of this section and until the 91894  
Director of Environmental Protection adopts rules that eliminate 91895  
references to the Hazardous Waste Facility Board, whenever the 91896  
Hazardous Waste Facility Board or Board, when "Board" refers to 91897  
the Hazardous Waste Facility Board, is referred to in a rule, the 91898  
reference shall be deemed to refer to the Environmental Protection 91899  
Agency or the Director of Environmental Protection, whichever is 91900  
appropriate. As expeditiously as possible after the effective date 91901  
of this section, the Director of Environmental Protection shall 91902  
adopt rules eliminating references to the Hazardous Waste Facility 91903  
Board. 91904

Permits or modifications issued by the Hazardous Waste Facility Board under section 3734.05 of the Revised Code as that section existed prior to its amendment by this act shall continue in effect as if the Director had issued the permits or modifications under section 3734.05 of the Revised Code after the effective date of its amendment by this act. Any application pending before the Hazardous Waste Facility Board on the effective date of this section shall be transferred to the Environmental Protection Agency for approval or disapproval by the Director. All records, files, and other documents of the Hazardous Waste Facility Board shall be transferred to the Environmental Protection Agency.

**Section 145.03A.** (A) There is hereby created the Ohio Autism Task Force consisting of the following members:

(1) All of the following persons to be appointed by the Governor:

(a) A person diagnosed with autism;

(b) Four persons who are parents of children diagnosed with autism;

(c) A special education administrator of an Ohio school district;

(d) A representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities;

(e) A representative of the Ohio Developmental Disabilities Council;

(f) A representative of the Autism Society of Ohio;

(g) A developmental pediatrician who is a member of the Ohio Association of Pediatricians;

(h) Two representatives from private schools in Ohio that

provide special education services to children diagnosed with	91934
autism;	91935
(i) Two representatives from Ohio hospitals that provide	91936
services to children diagnosed with autism.	91937
(2) Two members of the House of Representatives, one from the	91938
majority party and one from the minority party, appointed by the	91939
Speaker of the House of Representatives;	91940
(3) Two members of the Senate, one from the majority party	91941
and one from the minority party, appointed by the President of the	91942
Senate;	91943
(4) The Director of Mental Retardation and Developmental	91944
Disabilities or the Director's designee;	91945
(5) The Director of Job and Family Services or the Director's	91946
designee;	91947
(6) The Superintendent of Public Instruction or the	91948
Superintendent's designee;	91949
(7) The Director of Health or the Director's designee.	91950
(B) All appointments and designations to the Task Force shall	91951
be made not later than thirty days after the effective date of	91952
this section. Any vacancy that occurs on the Task Force shall be	91953
filled in the same manner as the original appointment. The members	91954
of the Task Force shall serve without compensation.	91955
(C) The initial meeting of the Task Force shall be held not	91956
later than sixty days after the effective date of this section. At	91957
its initial meeting, the Task Force shall elect from its	91958
membership a chairperson and other officers it considers	91959
necessary. Thereafter, the Task Force shall meet on the call of	91960
the chairperson.	91961
(D) The Department of Mental Retardation and Developmental	91962
Disabilities shall provide meeting facilities and other support as	91963

necessary for the Task Force. 91964

(E) The Task Force shall study and make recommendations 91965  
regarding both of the following: 91966

(1)The growing incidence of autism in Ohio; 91967

(2)Ways to improve the delivery in this state of autism 91968  
services. 91969

(F) Not later than one year after the effective date of this 91970  
section, the Task Force shall submit a written report of its 91971  
recommendations to the Governor, the Speaker of the House of 91972  
Representatives, and the President of the Senate. 91973

(G) On submission of its report, the Task Force shall cease 91974  
to exist. 91975

**Section 145.03I.** As used in this section, "qualified 91976  
property" means real and tangible personal property that satisfies 91977  
the qualifications for tax exemption under the terms of section 91978  
3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 91979  
of the Revised Code. 91980

Notwithstanding section 5713.081 of the Revised Code, when 91981  
qualified property has not received tax exemption due to a failure 91982  
to comply with Chapter 5713. or section 5715.27 of the Revised 91983  
Code, the owner of the property, at any time on or before 91984  
twenty-four months after the effective date of this section, may 91985  
file with the Tax Commissioner an application requesting that the 91986  
property be placed on the tax exempt list and that all unpaid 91987  
taxes, penalties, and interest on the property be abated. 91988

The application shall be made on the form prescribed by the 91989  
Tax Commissioner under section 5715.27 of the Revised Code and 91990  
shall list the name of the county in which the property is 91991  
located; the property's legal description; its taxable value; the 91992  
amount in dollars of the unpaid taxes, penalties, and interest; 91993

the date of acquisition of title to the property; the use of the 91994  
property during any time that the unpaid taxes accrued; and any 91995  
other information required by the Tax Commissioner. The county 91996  
auditor shall supply the required information upon request of the 91997  
applicant. 91998

Upon request of the applicant, the county treasurer shall 91999  
determine if all taxes, penalties, and interest that became a lien 92000  
on the qualified property before it first was used for an exempt 92001  
purpose and all special assessments charged against the property 92002  
have been paid in full. If so, the county treasurer shall issue a 92003  
certificate to the applicant stating that all such taxes, 92004  
penalties, interest, and assessments have been paid in full. Prior 92005  
to filing the application with the Tax Commissioner, the applicant 92006  
shall attach the county treasurer's certificate to it. The Tax 92007  
Commissioner shall not consider an application filed under this 92008  
section unless such a certificate is attached to it. 92009

Upon receipt of the application and after consideration of 92010  
it, the Tax Commissioner shall determine if the applicant meets 92011  
the qualifications set forth in this section, and if so shall 92012  
issue an order directing that the property be placed on the tax 92013  
exempt list of the county and that all unpaid taxes, penalties, 92014  
and interest for every year the property met the qualifications 92015  
for exemption described in section 3313.44, 5709.07, 5709.08, 92016  
5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be 92017  
abated. If the Tax Commissioner finds that the property is not now 92018  
being so used or is being used for a purpose that would foreclose 92019  
its right to tax exemption, the Tax Commissioner shall issue an 92020  
order denying the application. 92021

If the Tax Commissioner finds that the property is not 92022  
entitled to tax exemption and to the abatement of unpaid taxes, 92023  
penalties, and interest for any of the years for which the owner 92024  
claims an exemption or abatement, the Tax Commissioner shall order 92025

the county treasurer of the county in which the property is 92026  
located to collect all taxes, penalties, and interest due on the 92027  
property for those years in accordance with law. 92028

The Tax Commissioner may apply this section to any qualified 92029  
property that is the subject of an application for exemption 92030  
pending before the Tax Commissioner on the effective date of this 92031  
section, without requiring the property owner to file an 92032  
additional application. The Tax Commissioner also may apply this 92033  
section to any qualified property that is the subject of an 92034  
application for exemption filed on or after the effective date of 92035  
this section and on or before twelve months after that effective 92036  
date, even though the application does not expressly request 92037  
abatement of unpaid taxes. 92038

**Section 145.03J.** (A) The amendment, repeal and reenactment, 92039  
or enactment by this act of sections 718.01, 718.02, 718.03, 92040  
718.05, 718.051, and 718.121 of the Revised Code apply to taxable 92041  
years beginning on or after January 1, 2004. 92042

(B) The amendment by this act of sections 718.11, 5717.011, 92043  
and 5717.03 of the Revised Code apply to matters relating to 92044  
taxable years beginning on or after January 1, 2004. 92045

(C) The credit allowed by section 718.021 of the Revised Code 92046  
applies to qualifying losses sustained in taxable years beginning 92047  
on or after January 1, 2004. 92048

**Section 145.03K.** Not later than thirty days after the 92049  
effective date of this section, the Governor, with the advice and 92050  
consent of the Senate, shall make initial appointments to the Ohio 92051  
Business Gateway Steering Committee created in section 5703.56 of 92052  
the Revised Code. Terms of office shall be as prescribed in 92053  
section 5703.56 of the Revised Code. 92054

**Section 145.03N.** (A) The amendment by this act of sections 92055  
165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 92056  
5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of 92057  
this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5741.01, 92058  
5741.02, and 5741.121 of the Revised Code apply on and after July 92059  
1, 2003. 92060

(B) The amendment by this act of sections 5739.021, 5739.022, 92061  
5739.023, and 5739.026 of the Revised Code apply on and after 92062  
January 1, 2004. 92063

(C) The amendment by this act of sections 5739.10, 5741.021, 92064  
5741.741.023 of the Revised Code apply on and after January 1, 92065  
2006. 92066

(D) The repeal and re-enactment by this act of section 92067  
5739.034 of the Revised Code applies on and after July 1, 2003. 92068

**Section 145.030.** Sections 107.32 and 107.33 of the Revised 92069  
Code shall apply to all state institutional facilities, as defined 92070  
in section 107.32 of the Revised Code, that were in operation on 92071  
or after January 1, 2003. 92072

**Section 145.03R.** The Legislative Office of Education 92073  
Oversight shall conduct a review of partnership agreements between 92074  
a Head Start provider and a provider of child care or day care 92075  
services. In conducting this review, the Office shall analyze the 92076  
following: 92077

(A) The impact on literacy-readiness for children receiving 92078  
services as a result of such agreements; 92079

(B) The costs and benefits of such agreements to both 92080  
participant children and the providers who are parties to the 92081  
agreements. In analyzing the costs and benefits of such 92082  
agreements, the Office shall examine the financial costs and 92083

benefits to providers who are parties to the agreements and to 92084  
families of participant children. Additionally, the Office shall 92085  
examine intangible costs and benefits to participant children, 92086  
such as intellectual, emotional, and physical benefits or 92087  
detriments caused by service under such agreements. 92088

(C) The operation of the agreements. In analyzing the 92089  
operation of the agreements, the Office shall review how the 92090  
agreements work, how well the agreements work, what components are 92091  
included in the agreements, and whether the agreements are unique 92092  
to the providers who are parties to the agreements or standardized 92093  
across the state or within a local region. 92094

(D) Whether there is an administrative entity, such as a 92095  
county department of job and family services, that oversees the 92096  
implementation of a particular agreement. If there is such an 92097  
entity that oversees an agreement, the Office shall examine the 92098  
degree to which oversight is performed and what overhead costs the 92099  
administrative entity incurs in overseeing such agreements. 92100

The Office shall submit the final results of this study to 92101  
the General Assembly not later than December 31, 2004. 92102

**Section 145.03T.** (A) Within one hundred twenty days after the 92103  
effective date of this section, the Director of Agriculture, the 92104  
Director of Rehabilitation and Correction, and the Director of 92105  
Youth Services shall develop a plan to optimize the quantity and 92106  
use of food grown and harvested in state correctional institutions 92107  
or secure facilities operated by the Department of Youth Services 92108  
in the most cost-effective manner. The plan shall include methods 92109  
to increase production at farms operated by either department and 92110  
shall include methods to ensure that the highest possible 92111  
percentage of food consumed at state correctional institutions and 92112  
secure facilities operated by the Department of Youth Services is 92113  
food grown and harvested at a state correctional institution or 92114

secure facility operated by the Department of Youth Services. 92115

(B) The plan shall consider possible amendments to the 92116  
Revised Code, amendments to the Administrative Code, 92117  
administrative changes, financial strategies, strategies to obtain 92118  
a reliable workforce, and any other means to optimize the quantity 92119  
and use of food of that nature in state correctional institutions 92120  
and secure facilities operated by the Department of Youth 92121  
Services. 92122

The plan and its findings, conclusions, and any 92123  
recommendations and proposed legislation shall be submitted to the 92124  
Speaker of the House of Representatives, the President of the 92125  
Senate, the Governor, the Director of Rehabilitation and 92126  
Correction, and the Director of Youth Services. 92127

(C) As used in this section, "state correctional institution" 92128  
has the same meaning as in section 2967.01 of the Revised Code. 92129

**Section 145.03BB.** The State Racing Commission shall conduct a 92130  
performance study of the Commission based upon its current level 92131  
of full-time employees. The Commission, not later than January 1, 92132  
2004, shall make recommendations to the Governor and the General 92133  
Assembly regarding possible staff reductions and ways to improve 92134  
the efficiency of the Commission's operations. 92135

**Section 145.03CC.** For any metropolitan housing authority that 92136  
is in existence when division (D) of section 3735.27 of the 92137  
Revised Code, as amended by this act, takes effect, and to which 92138  
that division applies, the board of county commissioners shall 92139  
appoint a member to fill the next vacancy that occurs due to the 92140  
expiration of the term of a member appointed by the chief 92141  
executive officer of the most populous city in the metropolitan 92142  
housing authority district. Thereafter, any vacancy in that 92143  
position shall be filled by an appointee of the board of county 92144

commissioners and all other vacancies shall be filled in the 92145  
manner provided for the original appointments. 92146

**Section 145.03DD.** The amendment by this act of section 92147  
5747.02 of the Revised Code applies to taxable years ending on or 92148  
after the effective date of this section. 92149

**Section 145.03EE.** (A) If a court finds that any provisions 92150  
within sections 1346.04 to 1346.10 of the Revised Code conflict 92151  
and cannot be harmonized with those within sections 1346.01 to 92152  
1346.03 of the Revised Code, provisions of sections 1346.01 to 92153  
1346.03 of the Revised Code shall control. 92154

(B) If any provision within sections 1346.04 to 1346.10 of 92155  
the Revised Code causes sections 1346.01 to 1346.03 of the Revised 92156  
Code to no longer constitute a qualifying or model statute, as 92157  
those terms are defined in the Master Settlement Agreement entered 92158  
into on November 23, 1998, by the state and leading United States 92159  
tobacco product manufacturers, the provision in question shall be 92160  
invalid. If any part of sections 1346.04 to 1346.10 of the Revised 92161  
Code is for any reason held to be invalid, unlawful, or 92162  
unconstitutional, the remaining portions of those sections shall 92163  
remain valid. 92164

**Section 145.03FF.** The first report of stamping agents 92165  
required by division (A) of section 1346.07 of the Revised Code 92166  
shall be due on the last day of the month following the month in 92167  
which this act becomes effective. The first certifications of a 92168  
tobacco product manufacturer under division (A) of section 1346.05 92169  
of the Revised Code shall be due forty-five days after the 92170  
effective date of this act. The directory established in division 92171  
(B) of section 1346.05 of the Revised Code shall be published 92172  
within ninety days after the effective date of this act. 92173

**Section 145.03GG.** (A) For the purposes of section 321.24, as 92174  
amended by this act, and of section 5703.80 of the Revised Code, 92175  
as enacted by this act, the Tax Commissioner may determine the 92176  
property tax administrative fee for fiscal year 2004 at any time 92177  
after the day this act becomes law. One-half of the amount of the 92178  
fee for that year may be deducted from each of the payments made 92179  
in the fiscal year under division (F) of section 321.24 of the 92180  
Revised Code, or the full amount of the fee for the year may be 92181  
deducted from the second of those payments made in the fiscal 92182  
year. The Director of Budget and Management may transfer the fee 92183  
from the General Revenue Fund to the Property Tax Administration 92184  
Fund created under section 5703.80 of the Revised Code, as enacted 92185  
by this act, for fiscal year 2004 in three equal payments on 92186  
November 1, 2003, February 1, 2004, and May 1, 2004. 92187

(B) Within thirty days after the Tax Commissioner determines 92188  
the property tax administrative fee for fiscal year 2004 under 92189  
division (A) of this section, the Tax Commissioner shall notify 92190  
the Department of Education of the amount by which each school 92191  
district's reimbursement made under division (F) of section 321.24 92192  
of the Revised Code, as amended by this act, is to be reduced for 92193  
the Property Tax Administration Fund. 92194

**Section 145.03HH.** (A) As used in this section, "housing 92195  
officer" has the same meaning as in section 3735.65 of the Revised 92196  
Code. 92197

(B) Any complaint filed with the tax commissioner on or after 92198  
the effective date of this section challenging the continued 92199  
exemption of property granted an exemption by a housing officer 92200  
under section 3735.67 of the Revised Code shall be certified by 92201  
the tax commissioner to the housing officer. The housing officer 92202  
shall proceed to hear and determine such complaint in accordance 92203

with division (E) of section 3735.67 of the Revised Code. The 92204  
commissioner may hear and determine any such complaint filed with 92205  
the commissioner before the effective date of this section or may 92206  
certify such complaint to the housing officer for hearing and 92207  
determination. 92208

(C) The filing date of any complaint certified to a housing 92209  
officer under this section shall be considered to be the date on 92210  
which the complaint was filed with the tax commissioner. 92211

**Section 145.03II.** Notwithstanding the date by which 92212  
determinations must be made under divisions (D), (G), and (H) of 92213  
section 5727.84 of the Revised Code, the Tax Commissioner, as soon 92214  
as is practicable after the effective date of that section as 92215  
amended by this act, shall redetermine electric company tax value 92216  
loss, fixed-rate levy loss, and fixed-sum levy loss for taxing 92217  
districts described in division (D)(3) of that section on the 92218  
basis of such amendments, and make the certification required by 92219  
divisions (J) and (K) of that section. On or before July 31, 2003, 92220  
or as soon as is practicable after the effective date of section 92221  
5727.84 of the Revised Code as amended by this act, the Department 92222  
of Education shall make the computations required under section 92223  
5727.85 of the Revised Code on the basis of such redeterminations. 92224  
Such redeterminations and computations apply for the purpose of 92225  
computing payments made to taxing districts under sections 5727.85 92226  
and 5727.86 of the Revised Code during state fiscal year 2004 and 92227  
subsequent fiscal years, as otherwise provided in those sections. 92228

**Section 145.03JJ.** The amendment by this act of section 92229  
5733.06 of the Revised Code applies to tax year 2004 and to each 92230  
tax year thereafter. 92231

**Section 145.03KK.** (A)(1) There is hereby created the 92232  
Legislative Audit Commission Study Committee, to be composed of 92233

four members. The committee shall study how other states provide 92234  
for a legislative auditing function within their respective 92235  
legislative branches of government and shall make recommendations 92236  
on how Ohio should address the legislative auditing function and 92237  
on the funding levels necessary to accomplish the objectives 92238  
recommended. The President of the Senate shall appoint to the 92239  
committee two members of the Senate, each of whom shall be a 92240  
member of a different political party. The Speaker of the House of 92241  
Representatives shall appoint to the committee two members of the 92242  
House of Representatives, each of whom shall be a member of a 92243  
different political party. 92244

(2) All vacancies in the membership of the committee shall be 92245  
filled in the same manner prescribed for original appointments to 92246  
the committee. 92247

(3) The members of the committee shall serve without 92248  
compensation, but shall be reimbursed for their actual and 92249  
necessary expenses incurred in the performance of their official 92250  
duties. 92251

(B) The members of the Legislative Audit Commission Study 92252  
Committee shall select a chairperson from among the appointed 92253  
members. 92254

(C) The Legislative Service Commission shall provide 92255  
necessary support to the Legislative Audit Commission Study 92256  
Committee. 92257

(D) The Legislative Audit Commission Study Committee shall 92258  
publish its findings and recommendations in a report to the 92259  
Governor, the Speaker and the Minority Leader of the House of 92260  
Representatives, and the President and Minority Leader of the 92261  
Senate not later than December 31, 2003. Upon submission of the 92262  
report, the committee shall cease to exist. 92263

**Section 145.03LL.** If the amendments made by this act to 92264  
division (B)(2)(b) of section 1346.02 of the Revised Code are 92265  
found unconstitutional or otherwise held invalid by a court of 92266  
competent jurisdiction, then to the extent that a tobacco product 92267  
manufacturer establishes that the amount it was required to place 92268  
into escrow in a particular year was greater than the state's 92269  
allocable share of the total payments that such manufacturer would 92270  
have been required to make in that year under the Master 92271  
Settlement Agreement (as determined pursuant to section IX(i)(2) 92272  
of the Master Settlement Agreement, and before any of the 92273  
adjustments or offsets described in section IX(i)(3) of that 92274  
Agreement other than the inflation adjustment) had it been a 92275  
participating manufacturer, the excess shall be released from 92276  
escrow and revert back to such tobacco product manufacturer. 92277

The consequent of the preceding paragraph effectively 92278  
reinstates division (B)(2)(b) of section 1346.02 of the Revised 92279  
Code as it existed prior to its amendment by this act. 92280

**Section 145.03MM.** The amendment by this act to division (H) 92281  
of section 718.01 and to section 718.14 of the Revised Code apply 92282  
to taxable years beginning on or after January 1, 2003. 92283

**Section 145.03NN.** There is hereby created the Aboveground 92284  
Petroleum Storage Tank Study Committee. The Committee shall be 92285  
comprised of the State Fire Marshal, and the Superintendent of 92286  
Industrial Compliance, a member of the House of Representatives 92287  
appointed by the Speaker of the House of Representatives, a member 92288  
of the Senate appointed by the President of the Senate, and twelve 92289  
members appointed by the Governor. The legislative members shall 92290  
be from different political parties. The Speaker of the House of 92291  
Representatives, the President of the Senate, and the Governor 92292  
shall make these appointments within sixty days after the 92293

effective date of this section. 92294

Of the appointments made by the Governor, two shall be 92295  
representatives of petroleum refiners, two shall be 92296  
representatives of petroleum marketers, one shall represent 92297  
municipal corporations, one shall represent counties, one shall 92298  
represent townships, one shall represent agricultural interests, 92299  
one shall represent the highway construction industry, one shall 92300  
represent the trucking industry, one shall represent the Fire 92301  
Service Alliance and one shall represent the public. 92302

The Committee shall determine and recommend whether 92303  
aboveground petroleum storage tanks that are not regulated by the 92304  
Superintendent of Industrial Compliance should be registered, and 92305  
if they are to be registered, the annual fee for registration, and 92306  
any other regulation needed to insure the safety of such tanks and 92307  
the vicinities in which the tanks are located. 92308

The Committee shall make its recommendations to the Governor, 92309  
the Speaker of the House of Representatives, and the President of 92310  
the Senate not later than December 31, 2004. 92311

**Section 145.0300.** The Governor shall appoint the new members 92312  
added to the Board of Building and Fire Standards pursuant to 92313  
section 3781.07 of the Revised Code as amended by this act and the 92314  
new members added to the Board of Building Appeals pursuant to 92315  
section 3781.19 of the Revised Code as amended by this act on or 92316  
before ninety days after October 1, 2003. The initial term of the 92317  
new members shall be until October 13, 2007, and terms thereafter 92318  
shall be for four years. 92319

**Section 145.03PP.** The state fire code adopted by the State 92320  
Fire Marshal as it exists on the effective date of this section 92321  
remains effective until the State Board of Building and Fire 92322  
Standards adopts changes to the state fire code pursuant to 92323

sections 3737.82 and 3737.83 of the Revised Code as amended by 92324  
this act. 92325

**Section 145.03QQ.** The legislative authority of a county with 92326  
a population of six hundred thousand or more may create local 92327  
funding options for construction of a convention center and 92328  
related facilities. 92329

**Section 145.03RR.** (A) Any person required to make accelerated 92330  
tax payments under section 5739.032, 5739.122, or 5741.121 of the 92331  
Revised Code that makes full payment of the taxes for the April 92332  
2003 reporting period on or before May 23, 2003; makes full 92333  
payment of the taxes for the May 2003 reporting period on or 92334  
before June 23, 2003; and makes all three of the required 92335  
accelerated tax payments for the June 2003 reporting period on or 92336  
before June 25, 2003, shall not be subject to the additional 92337  
charge imposed under division (D)(1) of section 5739.032, division 92338  
(D)(1) of section 5739.122, or division (D)(1) of section 5741.121 92339  
of the Revised Code for the reporting periods of April 2003 and 92340  
May 2003. 92341

(B) Notwithstanding division (A) of this section, a person 92342  
required to make accelerated tax payments under section 5739.032, 92343  
5739.122, or 5741.121 of the Revised Code that has not been 92344  
notified by the Department of Taxation of the requirement to make 92345  
accelerated payments under one of those sections shall not be 92346  
subject to the additional charge imposed under division (D)(1) of 92347  
section 5739.032, division (D)(1) of section 5739.122, or division 92348  
(D)(1) of section 5741.121 of the Revised Code for any reporting 92349  
period prior to the receipt of the notice, or until the reporting 92350  
period of September 2003, whichever is earlier. 92351

**Section 146.01.** Except as otherwise specifically provided in 92352  
this act, the codified sections of law amended or enacted in this 92353

act, and the items of law of which the codified sections of law 92354  
amended or enacted in this act are composed, are subject to the 92355  
referendum. Therefore, under Ohio Constitution, Article II, 92356  
Section 1c and section 1.471 of the Revised Code, the codified 92357  
sections of law amended or enacted by this act, and the items of 92358  
law of which the codified sections of law as amended or enacted by 92359  
this act are composed, take effect on the ninety-first day after 92360  
this act is filed with the Secretary of State. If, however, a 92361  
referendum petition is filed against any such codified section of 92362  
law as amended or enacted by this act, or against any item of law 92363  
of which any such codified section of law as amended or enacted by 92364  
this act is composed, the codified section of law as amended or 92365  
enacted, or item of law, unless rejected at the referendum, takes 92366  
effect at the earliest time permitted by law. 92367

**Section 146.02.** Except as otherwise specifically provided in 92368  
this act, the repeal by this act of a codified section of law is 92369  
subject to the referendum. Therefore, under Ohio Constitution, 92370  
Article II, Section 1c and section 1.471 of the Revised Code, the 92371  
repeal by this act of a codified section of law takes effect on 92372  
the ninety-first day after this act is filed with the Secretary of 92373  
State. If, however, a referendum petition is filed against any 92374  
such repeal, the repeal, unless rejected at the referendum, takes 92375  
effect at the earliest time permitted by law. 92376

**Section 146.03.** The repeal by this act of sections 122.12, 92377  
1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 92378  
1553.08, 1553.09, 1553.10, 1553.99, 3318.35, 3701.142, 3701.144, 92379  
4141.044, 5115.011, 5115.012, 5115.06, and 5115.061 of the Revised 92380  
Code is not subject to the referendum. Therefore, under Ohio 92381  
Constitution, Article II, Section 1d and section 1.471 of the 92382  
Revised Code, the repeals go into immediate effect when this act 92383  
becomes law. 92384

**Section 146.05.** (A) Sections 117.45, 121.04, 122.658, 124.03, 92385  
124.15, 124.152, 124.181, 124.183, 126.11, 127.16, 131.23, 173.08, 92386  
173.54, 323.01, 329.03, 329.04, 329.051, 340.021, 340.03, 901.21, 92387  
901.63, 901.85, 1501.04, 2101.16, 2151.3529, 2151.3530, 2305.234 92388  
(in Section 1), 2329.66, 2715.041, 2715.045, 2716.13, 2921.13, 92389  
3111.04, 3119.01, 3123.952, 3311.05, 3311.059, 3313.381, 3313.976, 92390  
3313.978, 3313.979, 3314.033, 3314.083, 3316.031, 3316.08, 92391  
3317.012, 3317.013, 3317.014, 3317.022, 3317.023, 3317.024, 92392  
3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 92393  
3317.07, 3317.10, 3317.16, 3318.37, 3323.16, 3332.04 (in Section 92394  
1), 3517.092, 3701.02, 3701.021, 3701.022, 3701.029, 3701.141, 92395  
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3769.087, 3773.43, 3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 92399  
4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4105.17, 92400  
4112.15, 4117.14, 4123.27, 4141.09, 4501.06, 4723.06, 4723.08, 92401  
4723.082, 4723.17, 4729.01, 4729.41, 4731.65, 4731.71, 4736.12, 92402  
4747.05, 4747.06, 4747.07, 4747.10, 4755.03, 4755.031, 4771.22, 92403  
4903.24, 4905.91, 4919.79, 5101.11, 5101.14, 5101.141, 5101.142, 92404  
5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 92405  
5101.181, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5103.155, 92406  
5104.04, 5104.30, 5107.02, 5107.30, 5107.40, 5107.60, 5111.0113, 92407  
5111.02, 5111.025, 5111.03, 5111.06, 5111.08 (5111.071), new 92408  
5111.16, 5111.16 (5111.08), 5111.161, 5111.17, 5111.171, 5111.172, 92409  
5111.174, 5111.175, 5111.20, 5111.206, 5111.21, 5111.22, 5111.222, 92410  
5111.25, 5111.251, 5111.252 (5123.199), 5111.262, 5111.28, 92411  
5111.29, 5111.30, 5111.31, 5111.65, 5111.66, 5111.661, 5111.67, 92412  
5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 92413  
5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 92414  
5111.685, 5111.686, 5111.687, 5111.688, 5111.689, 5111.6810, 92415  
5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.911, 92416

5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 92417  
(5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 92418  
5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 92419  
5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 92420  
5123.19, 5123.196, 5123.198, 5123.1910, 5123.38, 5126.01, 92421  
5126.042, 5126.12, 5153.78, 5502.13, 5709.64, 5735.05, 5735.053, 92422  
5735.23, 5735.26, 5735.291, 5735.30, and 6109.21 of the Revised 92423  
Code as amended, enacted, or renumbered by this act, and the items 92424  
of law of which such sections as amended or enacted by this act 92425  
are composed, are not subject to the referendum. Therefore, under 92426  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 92427  
Revised Code, such sections as amended, enacted, or renumbered by 92428  
this act, and the items of law of which such sections as amended 92429  
or enacted by this act are composed, go into immediate effect when 92430  
this act becomes law. 92431

(B) Sections 3313.481, 3317.11, and 5111.173 of the Revised 92432  
Code as repealed and reenacted by this act, and the items of law 92433  
of which it is composed, is not subject to the referendum. 92434  
Therefore, under Ohio Constitution, Article II, Section 1d and 92435  
section 1.471 of the Revised Code, the section as repealed and 92436  
reenacted by this act goes into immediate effect when this act 92437  
becomes law. 92438

(C) The amendment of sections 2915.01, 2915.02, 2915.08, 92439  
2915.09, 2915.091, 2915.092, 2915.093, 2915.10, 2915.101, and 92440  
2915.13 of the Revised Code is not subject to the referendum under 92441  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 92442  
Revised Code and goes into effect on July 1, 2003. 92443

(D) The amendments of sections 4503.101 and 4503.103 of the 92444  
Revised Code are not subject to the referendum under Ohio 92445  
Constitution, Article II, Section 1d and section 1.471 of the 92446  
Revised Code and go into effect on June 30, 2003. 92447

**Section 146.06.** (A) The amendment, enactment, or repeal and 92448  
reenactment by this act of sections 109.71, 122.17, 122.171, 92449  
122.71, 321.24, 323.13, 715.013, 718.01, 718.02, 718.021, 718.03, 92450  
718.05, 718.051, 718.11, 718.121, 718.14, 718.15, 718.151, 92451  
2923.35, 2925.44, 2933.43, 2935.01, 3735.67, 3735.671, 4141.201, 92452  
5703.56, 5703.57, 5703.58, 5703.80, 5709.20, 5709.201, 5709.21, 92453  
5709.211, 5709.212, 5709.22, 5709.23, 5709.24, 5709.25, 5709.26, 92454  
5709.27, 5711.02, 5711.13, 5711.18, 5711.22, 5711.27, 5711.33, 92455  
5713.07, 5713.08, 5713.081, 5713.082, 5715.27, 5715.39, 5717.011, 92456  
5717.03, 5727.111, 5727.30, 5727.84, 5728.04, 5728.06, 5728.99, 92457  
5733.04, 5733.05, 5733.051, 5733.056, 5733.0511, 5733.059, 92458  
5733.06, 5733.0611, 5733.09, 5733.45, 5733.55, 5733.56, 5733.57, 92459  
5733.98, 5735.14, 5735.15, 5735.19, 5735.99, 5743.45 (in Section 1 92460  
of this act), 5745.01, 5745.02, 5745.04, 5747.02, 5747.026, 92461  
5747.31, and 6111.06 of the Revised Code provides for or is 92462  
essential to implementation of a tax levy. Therefore, under Ohio 92463  
Constitution, Article II, Section 1d, the amendments, enactments, 92464  
or repeals and reenactments and the items of which they are 92465  
composed, are not subject to the referendum and go into immediate 92466  
effect when this act becomes law. 92467

(B) The amendment or enactment by this act of sections 92468  
165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 92469  
5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of 92470  
this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 92471  
5741.01, 5741.02, 5741.121, and 5741.25 of the Revised Code 92472  
provides for or is essential to implementation of a tax levy. 92473  
Therefore, under Ohio Constitution, Article II, Section 1d, the 92474  
amendments, and the items of which they are composed, are not 92475  
subject to the referendum and go into immediate effect when this 92476  
act becomes law. 92477

(C) The amendment by this act of sections 5739.021, 5739.022, 92478

5739.023, and 5739.026 of the Revised Code provides for or is 92479  
essential to implementation of a tax levy. Therefore, under Ohio 92480  
Constitution, Article II, Section 1d, the amendments, and the 92481  
items of which they are composed, are not subject to the 92482  
referendum and go into effect January 1, 2004. 92483

(D) The amendment by this act of sections 5739.10, 5741.021, 92484  
5741.022, and 5741.023 of the Revised Code provides for or is 92485  
essential to implementation of a tax levy. Therefore, under Ohio 92486  
Constitution, Article II, Section 1d, the amendments, and the 92487  
items of which they are composed, are not subject to the 92488  
referendum and, except as provided in this section, go into effect 92489  
January 1, 2006. 92490

(E) The repeal and re-enactment by this act of section 92491  
5739.034 of the Revised Code provides for or is essential to 92492  
implementation of a tax levy. Therefore, under Ohio Constitution, 92493  
Article II, Section 1d, the repeal and re-enactment, and the items 92494  
of which they are composed, are not subject to the referendum and 92495  
go into effect July 1, 2003. 92496

(F) The repeal by this act of sections 5735.33, 5739.35, 92497  
5741.24, 5743.46, and 5747.60 of the Revised Code provides for or 92498  
is essential to implementation of a tax levy. Therefore, under 92499  
Ohio Constitution, Article II, Section 1d, the repeals, and the 92500  
items of which they are composed, are not subject to the 92501  
referendum and go into immediate effect when this act becomes law. 92502

(G) The amendment by this act of section 5735.142 of the 92503  
Revised Code provides for or is essential to implementation of a 92504  
tax levy. Therefore, under Ohio Constitution, Article II, Section 92505  
1d the amendment is not subject to the referendum and goes into 92506  
effect on June 30, 2003. 92507

**Section 146.06A.** The repeal by this act of sections 319.311, 92508  
5733.111, 5741.011, and 5747.131 of the Revised Code provides for 92509

or is essential to implementation of a tax levy. Therefore, under 92510  
Ohio Constitution, Article II, Section 1d, the repeals, and the 92511  
items of which they are composed, are not subject to the 92512  
referendum and go into immediate effect when this act becomes law. 92513

**Section 146.06B.** The repeal by this act of sections 5709.231, 92514  
5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 92515  
5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 92516  
5709.51, 5709.52, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 92517  
6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code 92518  
provides for or is essential to implementation of a tax levy. 92519  
Therefore, under Ohio Constitution, Article II, Section 1d, the 92520  
repeals, and the items of which they are composed, are not subject 92521  
to the referendum and go into immediate effect when this act 92522  
becomes law. 92523

**Section 146.07.** (A) The amendment by this act of sections 92524  
4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the 92525  
Revised Code provides for or is essential to implementation of a 92526  
tax levy. Therefore, under Ohio Constitution, Article II, Section 92527  
1d, the amendments, and the items of which they are composed, are 92528  
not subject to the referendum and go into effect December 31, 92529  
2004. 92530

(B) The repeal by this act of sections 5727.39 and 5727.44 of 92531  
the Revised Code provide for or is essential to implementation of 92532  
a tax levy. Therefore, under Ohio Constitution, Article II, 92533  
Section 1d, the repeals, and the items of which they are composed, 92534  
are not subject to the referendum and go into effect December 31, 92535  
2004. 92536

**Section 146.07A.** Section 3301.31 of the Revised Code, as 92537  
repealed and reenacted by this act, and the items of law of which 92538  
the section as repealed and reenacted by this act is composed, is 92539

not subject to the referendum. Therefore, under Ohio Constitution, 92540  
Article II, Section 1d and section 1.471 of the Revised Code, the 92541  
section as repealed and reenacted is entitled to go into immediate 92542  
effect when this act becomes law. However, that section as 92543  
repealed and reenacted by this act, and the items of law of which 92544  
that section as repealed and reenacted by this act are composed, 92545  
takes effect July 1, 2004, or the day this act becomes law, 92546  
whichever is later. 92547

**Section 146.07B.** New section 3301.33 and sections 3301.34, 92548  
3301.35, 3301.36, and 3301.38, as enacted by this act, and section 92549  
3301.33 (3301.40) of the Revised Code as renumbered by this act, 92550  
and the items of law of which those sections as enacted or 92551  
renumbered by this act are composed, are not subject to the 92552  
referendum. Therefore, under Ohio Constitution, Article II, 92553  
Section 1d and section 1.471 of the Revised Code, the sections as 92554  
enacted or renumbered are entitled to go into immediate effect 92555  
when this act becomes law. However, those sections as enacted or 92556  
renumbered by this act, and the items of law of which those 92557  
sections as enacted or renumbered by this act are composed, take 92558  
effect July 1, 2004, or the day this act becomes law, whichever is 92559  
later. 92560

**Section 146.07C.** Sections 3301.37, 3301.52, 3301.53, 3301.54, 92561  
3301.55, 3307.57, and 3301.58 of the Revised Code, as amended or 92562  
enacted by this act, are not subject to the referendum. Therefore, 92563  
under Ohio Constitution, Article II, Section 1d and section 1.471 92564  
of the Revised Code the sections as amended or enacted by this 92565  
act, and the items of law of which the sections as amended or 92566  
enacted by this act are composed, are entitled to go into 92567  
immediate effect when this act becomes law. However, the sections 92568  
as amended or enacted by this act, and the items of law of which 92569  
the sections as amended or enacted by this act are composed, take 92570  
effect September 1, 2003, or the day this act becomes law, 92571

whichever is later. 92572

**Section 146.07D.** The repeal by this act of section 3301.581 92573  
of the Revised Code is not subject to the referendum under Ohio 92574  
Constitution, Article II, Section 1d and section 1.471 of the 92575  
Revised Code and goes into effect September 1, 2003, or the day 92576  
this act becomes law, whichever is later. 92577

**Section 146.12.** The version of section 3332.04 of the Revised 92578  
Code that is scheduled to take effect July 1, 2003, as amended by 92579  
this act, and the items of law of which that section as amended is 92580  
composed, are not subject to the referendum. Therefore, under Ohio 92581  
Constitution, Article II, Section 1d and section 1.471 of the 92582  
Revised Code, the section as amended by this act, and the items of 92583  
law of which that section as amended is composed, go into 92584  
immediate effect on July 1, 2003. 92585

**Section 146.12A.** \* (A) Except as otherwise provided in 92586  
division (B) of this section, sections 121.08, 3701.82, 3737.01, 92587  
3737.02, 3737.03, 3737.21, 3737.22, 3737.65, 3737.71, 3737.81, 92588  
3737.82, 3737.83, 3737.84, 3737.85, 3737.86, 3737.88, 3737.881, 92589  
3737.882, 3737.883, 3737.89, 3737.91, 3737.92, 3737.98, 3741.14, 92590  
3743.57, 3743.75, 3746.02, 3781.07, and 3901.86 of the Revised 92591  
Code as amended by this act, and sections 3741.15, 3781.071, 92592  
3781.072, and 3781.22 of the Revised Code as enacted by this act, 92593  
shall take effect October 1, 2003. 92594

(B) The amendment of section 121.08 of the Revised Code 92595  
removing a reference to the state fire marshal takes effect at the 92596  
earliest time permitted by law. 92597

**Section 146.13.** (A) Except as otherwise provided in division 92598  
(B) of this section, the amendments by this act to section 3745.11 92599  
of the Revised Code are not subject to the referendum. Therefore, 92600

under Ohio Constitution, Article II, Section 1d and section 1.471 92601  
of the Revised Code, the amendments, and the items of law they 92602  
contain, go into immediate effect when this act becomes law. 92603

(B)(1) The amendments by this act of division (P) of section 92604  
3745.11 of the Revised Code provides for or is essential to 92605  
implementation of a tax levy. Therefore, under Ohio Constitution, 92606  
Article II, Section 1d, the amendments, and the items of which 92607  
they are composed, are not subject to the referendum and go into 92608  
immediate effect when this act becomes law. 92609

(2) The seventh and last paragraph added to division (S)(1) 92610  
of section 3745.11 of the Revised Code by this act is subject to 92611  
the referendum. Therefore, under Ohio Constitution, Article II, 92612  
Section 1c and section 1.471 of the Revised Code, the paragraph 92613  
takes effect on the ninety-first day after this act is filed with 92614  
the Secretary of State. If, however, a referendum petition is 92615  
filed against the paragraph, or against any item of law it 92616  
contains, the paragraph or item, unless rejected at the 92617  
referendum, takes effect at the earliest time permitted by law. 92618

**Section 146.14.** The amendment by this act of the version of 92619  
section 4511.75 of the Revised Code that is scheduled to take 92620  
effect January 1, 2004, and the items of law of which that 92621  
amendment is composed, are not subject to the referendum under 92622  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 92623  
Revised Code and go into effect on July 1, 2004. 92624

**Section 146.15.** (A) Except as otherwise provided in division 92625  
(B) of this section, the amendments by this act to section 4743.05 92626  
of the Revised Code are subject to the referendum. Therefore, 92627  
under Ohio Constitution, Article II, Section 1c and section 1.471 92628  
of the Revised Code, the amendments take effect on the 92629  
ninety-first day after this act is filed with the Secretary of 92630

State. If, however, a referendum petition is filed against the 92631  
amendments, or against any item of law they contain, the 92632  
amendments or item, unless rejected at the referendum, takes 92633  
effect at the earliest time permitted by law. 92634

(B) The amendment by this act adding a reference to "4771." 92635  
to section 4743.05 of the Revised Code is not subject to the 92636  
referendum. Therefore, under Ohio Constitution, Article II, 92637  
Section 1d and section 1.471 of the Revised Code, the amendment 92638  
goes into immediate effect when this act becomes law. 92639

**Section 146.15A.** (A) The amendments by this act to section 92640  
5104.01 of the Revised Code are not subject to the referendum. 92641  
Therefore, under Ohio Constitution, Article II, Section 1d and 92642  
section 1.471 of the Revised Code, the amendments, and the items 92643  
of law they contain, go into immediate effect when this act 92644  
becomes law, except as provided in division (B) of this section. 92645

(B) The amendments by this act to division (T) of section 92646  
5104.01 of the Revised Code shall take effect on July 1, 2004. 92647

**Section 146.15B.** Section 5104.02 of the Revised Code, as 92648  
amended by this act, and the items of law of which the section as 92649  
amended by this act is composed, are not subject to the 92650  
referendum. Therefore, under Ohio Constitution, Article II, 92651  
Section 1d and section 1.471 of the Revised Code the section as 92652  
amended by this act, and the items of law of which the section as 92653  
amended by this act is composed, are entitled to go into immediate 92654  
effect when this act becomes law. However, the section as amended 92655  
by this act, and the items of law of which the section as amended 92656  
by this act are composed, take effect September 1, 2003, or the 92657  
day this act becomes law, whichever is later. 92658

**Section 146.15C.** (A) The amendments by this act to section 92659  
5104.32 of the Revised Code are not subject to the referendum. 92660

Therefore, under Ohio Constitution, Article II, Section 1d and 92661  
section 1.471 of the Revised Code, the amendments, and the items 92662  
of law they contain, go into immediate effect when this act 92663  
becomes law, except as provided in division (B) of this section. 92664

(B) The amendments by this act to division (B)(4) of section 92665  
5104.32 of the Revised Code shall take effect on September 1, 92666  
2003. 92667

**Section 146.16.** (A) Except as otherwise provided in division 92668  
(B) of this section, the amendments by this act to section 92669  
5111.022 of the Revised Code are not subject to the referendum. 92670  
Therefore, under Ohio Constitution, Article II, Section 1d and 92671  
section 1.471 of the Revised Code, the amendments, and the items 92672  
of law they contain, go into immediate effect when this act 92673  
becomes law. 92674

(B) The amendments by this act adding divisions (B)(4), (E), 92675  
and (F) to section 5111.022 of the Revised Code are subject to the 92676  
referendum. Therefore, under Ohio Constitution, Article II, 92677  
Section 1c and section 1.471 of the Revised Code, the amendments 92678  
take effect on the ninety-first day after this act is filed with 92679  
the Secretary of State. If, however, a referendum petition is 92680  
filed against the amendments, or against any item of law they 92681  
contain, the amendments or item, unless rejected at the 92682  
referendum, takes effect at the earliest time permitted by law. 92683

**Section 146.17.** Section 5112.31 of the Revised Code, as 92684  
amended by this act, and the items of law of which that section as 92685  
amended is composed, are not subject to the referendum. Therefore, 92686  
under Ohio Constitution, Article II, Section 1d and section 1.471 92687  
of the Revised Code, that section as amended by this act, and the 92688  
items of law of which that section as amended is composed, are 92689  
entitled to go into immediate effect when this act becomes law. 92690

However, that section as amended by this act, and the items of law 92691  
which that section as amended by this act are composed, take 92692  
effect on July 1, 2003, or the day this act becomes law, whichever 92693  
is later. 92694

**Section 146.17A.** \* Section 9.24 of the Revised Code, as 92695  
enacted by this act, shall take effect January 1, 2004. 92696

**Section 146.20.** \* Section 102.02 of the Revised Code, as 92697  
amended by this act, shall take effect January 1, 2004. 92698

**Section 146.21.** \* Section 4759.08 of the Revised Code, as 92699  
amended by this act, shall take effect July 1, 2004. 92700

**Section 146.22.** \* Sections 5103.031, 5103.033, 5103.034, 92701  
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 92702  
5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised 92703  
Code, as amended by this act, shall take effect on January 1, 92704  
2004. 92705

**Section 146.23.** \* Sections 5103.154 and 5153.163 of the 92706  
Revised Code as amended by this act take effect July 1, 2004. 92707

**Section 146.25.** Except as otherwise specifically provided in 92708  
this act, the uncodified sections of law amended or enacted in 92709  
this act, and the items of law of which the uncodified sections of 92710  
law amended or enacted in this act are composed, are not subject 92711  
to the referendum. Therefore, under Ohio Constitution, Article II, 92712  
Section 1d and section 1.471 of the Revised Code, the uncodified 92713  
sections of law amended or enacted in this act, and the items of 92714  
law of which the uncodified sections of law amended or enacted in 92715  
this act are composed, go into immediate effect when this act 92716  
becomes law. 92717

**Section 146.26.** Uncodified sections of law amended or enacted 92718  
in this act, and items of law contained within the uncodified 92719  
sections of law amended or enacted in this act, that are marked 92720  
with an asterisk are subject to the referendum. Therefore, under 92721  
Ohio Constitution, Article II, Section 1c and section 1.471 of the 92722  
Revised Code, the uncodified sections and items of law marked with 92723  
an asterisk take effect on the ninety-first day after this act is 92724  
filed with the Secretary of State. If, however, a referendum 92725  
petition is filed against an uncodified section or item of law 92726  
marked with an asterisk, the uncodified section or item of law 92727  
marked with an asterisk, unless rejected at the referendum, takes 92728  
effect at the earliest time permitted by law. 92729

If the amending and existing repeal clauses commanding the 92730  
amendment of an uncodified section of law are both marked with 92731  
asterisks, the uncodified section as amended is deemed also to 92732  
have been marked with an asterisk. 92733

An asterisk marking an uncodified section or item of law has 92734  
the form \*. 92735

This section defines the meaning and form of, but is not 92736  
itself to be considered marked with, an asterisk. 92737

**Section 146.28.** The repeal by this act of the following 92738  
uncodified sections of law is not subject to the referendum and 92739  
therefore, under Ohio Constitution, Article II, Section 1d and 92740  
section 1.471 of the Revised Code, goes into immediate effect when 92741  
this act becomes law: 92742

(A) Section 11 of Am. Sub. S.B. 50 of the 121st General 92743  
Assembly; 92744

(B) Section 72 of Am. Sub. H.B. 850 of the 122nd General 92745  
Assembly; 92746

(C) Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly; 92747  
92748

(D) Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly; 92749  
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(E) Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly. 92751  
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**Section 146.29.** If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment. 92753  
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**Section 147.01.** \* The amendment of section 122.25 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section. 92764  
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**Section 147.02.** \* Section 921.151 was amended and renumbered as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 124th General Assembly, passed November 21, 2002, and effective July 1, 2004. The amendment of section 921.151 of the Revised Code in Section 1 of this act does not supersede that earlier amendment and renumbering. This act therefore amends both sections to ensure that its amendments continue on and after July 1, 2004. 92767  
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**Section 147.03.** The amendment by this act of sections 5112.03 92774

and 5112.08 of the Revised Code is not intended to supersede the 92775  
earlier repeal, with delayed effective date, of those sections. 92776  
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**Section 147.04.** The amendment by this act of section 5112.99 92778  
of the Revised Code is not intended to supersede the earlier 92779  
repeal, with delayed effective date, of that section. 92780

**Section 148.01.** \* Section 109.572 of the Revised Code is 92781  
presented in this act as a composite of the section as amended by 92782  
both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General 92783  
Assembly. The General Assembly, applying the principle stated in 92784  
division (B) of section 1.52 of the Revised Code that amendments 92785  
are to be harmonized if reasonably capable of simultaneous 92786  
operation, finds that the composite is the resulting version of 92787  
the section in effect prior to the effective date of the section 92788  
as presented in this act. 92789

**Section 148.01A.** Section 109.71 of the Revised Code is 92790  
presented in this act as a composite of the section as amended by 92791  
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 92792  
General Assembly, applying the principle stated in division (B) of 92793  
section 1.52 of the Revised Code that amendments are to be 92794  
harmonized if reasonably capable of simultaneous operation, finds 92795  
that the composite is the resulting version of the section in 92796  
effect prior to the effective date of the section as presented in 92797  
this act. 92798

**Section 148.02.** Section 121.04 of the Revised Code is 92799  
presented in this act as a composite of the section as amended by 92800  
both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General 92801  
Assembly. The General Assembly, applying the principle stated in 92802  
division (B) of section 1.52 of the Revised Code that amendments 92803

are to be harmonized if reasonably capable of simultaneous 92804  
operation, finds that the composite is the resulting version of 92805  
the section in effect prior to the effective date of the section 92806  
as presented in this act. 92807

**Section 148.02A.** Section 122.171 of the Revised Code is 92808  
presented in this act as a composite of the section as amended by 92809  
both H.B. 675 and Am. Sub. S.B. 180 of the 124th General Assembly. 92810  
The General Assembly, applying the principle stated in division 92811  
(B) of section 1.52 of the Revised Code that amendments are to be 92812  
harmonized if reasonably capable of simultaneous operation, finds 92813  
that the composite is the resulting version of the section in 92814  
effect prior to the effective date of the section as presented in 92815  
this act. 92816

**Section 148.02B.** Section 124.15 of the Revised Code is 92817  
presented in this act as a composite of the section as amended by 92818  
both Am. Sub. H.B. 640 and Sub. S.B. 245 of the 123rd General 92819  
Assembly. The General Assembly, applying the principle stated in 92820  
division (B) of section 1.52 of the Revised Code that amendments 92821  
are to be harmonized if reasonably capable of simultaneous 92822  
operation, finds that the composite is the resulting version of 92823  
the section in effect prior to the effective date of the section 92824  
as presented in this act. 92825

**Section 148.02C.** The version of section 2152.19 of the 92826  
Revised Code that is scheduled to take effect January 1, 2004, is 92827  
presented in this act as a composite of the section as amended by 92828  
both Am. Sub. H.B. 400 and Am. Sub. H.B. 490 of the 124th General 92829  
Assembly. The General Assembly, applying the principle stated in 92830  
division (B) of section 1.52 of the Revised Code that amendments 92831  
are to be harmonized if reasonably capable of simultaneous 92832  
operation, finds that the composite is the resulting version of 92833

the section in effect prior to the effective date of the section 92834  
as presented in this act. 92835

**Section 148.03.** \* The version of section 2305.234 of the 92836  
Revised Code that is scheduled to take effect January 1, 2004, is 92837  
presented in this act as a composite of the section as amended by 92838  
both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General 92839  
Assembly. The General Assembly, applying the principle stated in 92840  
division (B) of section 1.52 of the Revised Code that amendments 92841  
are to be harmonized if reasonably capable of simultaneous 92842  
operation, finds that the composite is the resulting version of 92843  
the section in effect prior to the effective date of the section 92844  
as presented in this act. 92845

**Section 148.04.** Section 2743.02 of the Revised Code is 92846  
presented in this act as a composite of the section as amended by 92847  
both Am. Sub. S.B. 115 and Am. Sub. S.B. 281 of the 124th General 92848  
Assembly. The General Assembly, applying the principle stated in 92849  
division (B) of section 1.52 of the Revised Code that amendments 92850  
are to be harmonized if reasonably capable of simultaneous 92851  
operation, finds that the composite is the resulting version of 92852  
the section in effect prior to the effective date of the section 92853  
as presented in this act. 92854

**Section 148.04A.** Section 2917.41 of the Revised Code is 92855  
presented in this act as a composite of the section as amended by 92856  
both Am. H.B. 61 and Am. Sub. S.B. 2 of the 121st General 92857  
Assembly. The General Assembly, applying the principle stated in 92858  
division (B) of section 1.52 of the Revised Code that amendments 92859  
are to be harmonized if reasonably capable of simultaneous 92860  
operation, finds that the composite is the resulting version of 92861  
the section in effect prior to the effective date of the section 92862  
as presented in this act. 92863

**Section 148.04B.** Section 2935.01 of the Revised Code is 92864  
presented in this act as a composite of the section as amended by 92865  
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 92866  
General Assembly, applying the principle stated in division (B) of 92867  
section 1.52 of the Revised Code that amendments are to be 92868  
harmonized if reasonably capable of simultaneous operation, finds 92869  
that the composite is the resulting version of the section in 92870  
effect prior to the effective date of the section as presented in 92871  
this act. 92872

**Section 148.06.** Section 3317.012 of the Revised Code is 92873  
presented in this act as a composite of the section as amended by 92874  
both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General 92875  
Assembly. The General Assembly, applying the principle stated in 92876  
division (B) of section 1.52 of the Revised Code that amendments 92877  
are to be harmonized if reasonably capable of simultaneous 92878  
operation, finds that the composite is the resulting version of 92879  
the section in effect prior to the effective date of the section 92880  
as presented in this act. 92881

**Section 148.07.** Section 3319.07 of the Revised Code is 92882  
presented in this act as a composite of the section as amended by 92883  
both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General 92884  
Assembly. The General Assembly, applying the principle stated in 92885  
division (B) of section 1.52 of the Revised Code that amendments 92886  
are to be harmonized if reasonably capable of simultaneous 92887  
operation, finds that the composite is the resulting version of 92888  
the section in effect prior to the effective date of the section 92889  
as presented in this act. 92890

**Section 148.08.** Section 3319.36 of the Revised Code is 92891  
presented in this act as a composite of the section as amended by 92892

both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General 92893  
Assembly. The General Assembly, applying the principle stated in 92894  
division (B) of section 1.52 of the Revised Code that amendments 92895  
are to be harmonized if reasonably capable of simultaneous 92896  
operation, finds that the composite is the resulting version of 92897  
the section in effect prior to the effective date of the section 92898  
as presented in this act. 92899

**Section 148.08A.** Section 4303.181 of the Revised Code is 92900  
presented in this act as a composite of the section as amended by 92901  
both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General 92902  
Assembly. The General Assembly, applying the principle stated in 92903  
division (B) of section 1.52 of the Revised Code that amendments 92904  
are to be harmonized if reasonably capable of simultaneous 92905  
operation, finds that the composite is the resulting version of 92906  
the section in effect prior to the effective date of the section 92907  
as presented in this act. 92908

**Section 148.08B.** Section 4723.07 of the Revised Code is 92909  
presented in this act as a composite of the section as amended by 92910  
both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General 92911  
Assembly. The General Assembly, applying the principle stated in 92912  
division (B) of section 1.52 of the Revised Code that amendments 92913  
are to be harmonized if reasonably capable of simultaneous 92914  
operation, finds that the composite is the resulting version of 92915  
the section in effect prior to the effective date of the section 92916  
as presented in this act. 92917

**Section 148.11.** \* Section 4973.17 of the Revised Code is 92918  
presented in this act as a composite of the section as amended by 92919  
both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General 92920  
Assembly. The General Assembly, applying the principle stated in 92921  
division (B) of section 1.52 of the Revised Code that amendments 92922

are to be harmonized if reasonably capable of simultaneous 92923  
operation, finds that the composite is the resulting version of 92924  
the section in effect prior to the effective date of the section 92925  
as presented in this act. 92926

**Section 148.12.** Section 5111.20 of the Revised Code is 92927  
presented in this act as a composite of the section as amended by 92928  
both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General 92929  
Assembly. The General Assembly, applying the principle stated in 92930  
division (B) of section 1.52 of the Revised Code that amendments 92931  
are to be harmonized if reasonably capable of simultaneous 92932  
operation, finds that the composite is the resulting version of 92933  
the section in effect prior to the effective date of the section 92934  
as presented in this act. 92935

**Section 148.13.** Section 5115.01 of the Revised Code is 92936  
presented in this act as a composite of the section as amended by 92937  
both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. 92938  
The General Assembly, applying the principle stated in division 92939  
(B) of section 1.52 of the Revised Code that amendments are to be 92940  
harmonized if reasonably capable of simultaneous operation, finds 92941  
that the composite is the resulting version of the section in 92942  
effect prior to the effective date of the section as presented in 92943  
this act. 92944

**Section 148.14.** \* Section 5709.62 of the Revised Code is 92945  
presented in this act as a composite of the section as amended by 92946  
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 92947  
Assembly. The General Assembly, applying the principle stated in 92948  
division (B) of section 1.52 of the Revised Code that amendments 92949  
are to be harmonized if reasonably capable of simultaneous 92950  
operation, finds that the composite is the resulting version of 92951  
the section in effect prior to the effective date of the section 92952

as presented in this act. 92953

**Section 148.15.** \* Section 5709.63 of the Revised Code is 92954  
presented in this act as a composite of the section as amended by 92955  
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 92956  
Assembly. The General Assembly, applying the principle stated in 92957  
division (B) of section 1.52 of the Revised Code that amendments 92958  
are to be harmonized if reasonably capable of simultaneous 92959  
operation, finds that the composite is the resulting version of 92960  
the section in effect prior to the effective date of the section 92961  
as presented in this act. 92962

**Section 148.16.** Section 5733.04 of the Revised Code is 92963  
presented in this act as a composite of the section as amended by 92964  
both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General 92965  
Assembly. The General Assembly, applying the principle stated in 92966  
division (B) of section 1.52 of the Revised Code that amendments 92967  
are to be harmonized if reasonably capable of simultaneous 92968  
operation, finds that the composite is the resulting version of 92969  
the section in effect prior to the effective date of the section 92970  
as presented in this act. 92971

**Section 148.17.** Section 5735.05 of the Revised Code is 92972  
presented in this act as a composite of the section as amended by 92973  
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 92974  
The General Assembly, applying the principle stated in division 92975  
(B) of section 1.52 of the Revised Code that amendments are to be 92976  
harmonized if reasonably capable of simultaneous operation, finds 92977  
that the composite is the resulting version of the section in 92978  
effect prior to the effective date of the section as presented in 92979  
this act. 92980

**Section 148.18.** Section 5735.23 of the Revised Code is 92981

presented in this act as a composite of the section as amended by 92982  
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 92983  
The General Assembly, applying the principle stated in division 92984  
(B) of section 1.52 of the Revised Code that amendments are to be 92985  
harmonized if reasonably capable of simultaneous operation, finds 92986  
that the composite is the resulting version of the section in 92987  
effect prior to the effective date of the section as presented in 92988  
this act. 92989

**Section 148.19.** Section 5739.01 of the Revised Code was 92990  
amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 92991  
200, all of the 124th General Assembly. Comparison of these 92992  
amendments in pursuance of section 1.52 of the Revised Code 92993  
discloses that while certain of the amendments of these acts are 92994  
reconcilable, certain other of the amendments are substantively 92995  
irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; 92996  
Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 92997  
was passed on March 13, 2002. Section 5739.01 of the Revised Code 92998  
is therefore presented in this act as it results from Am. Sub. 92999  
H.B. 524 and Sub. S.B. 200 and such of the amendments of Am. Sub. 93000  
S.B. 143 as are not in conflict with the amendments of Sub. S.B. 93001  
200. The General Assembly, applying the principle stated in 93002  
division (B) of section 1.52 of the Revised Code that amendments 93003  
are to be harmonized if reasonably capable of simultaneous 93004  
operation, finds that the composite is the resulting version of 93005  
the section in effect prior to the effective date of the section 93006  
as presented in this act. 93007

**Section 148.19A.** Section 5741.01 of the Revised Code is 93008  
presented in this act as a composite of the section as amended by 93009  
Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of 93010  
the 124th General Assembly. The General Assembly, applying the 93011  
principle stated in division (B) of section 1.52 of the Revised 93012

Code that amendments are to be harmonized if reasonably capable of 93013  
simultaneous operation, finds that the composite is the resulting 93014  
version of the section in effect prior to the effective date of 93015  
the section as presented in this act. 93016

**Section 148.19B.** Section 5743.45 of the Revised Code is 93017  
presented Section 1 of in this act as a composite of the section 93018  
as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 93019  
121st General Assembly. The General Assembly, applying the 93020  
principle stated in division (B) of section 1.52 of the Revised 93021  
Code that amendments are to be harmonized if reasonably capable of 93022  
simultaneous operation, finds that the composite is the resulting 93023  
version of the section in effect prior to the effective date of 93024  
the section as presented in this act. 93025

**Section 149.** If any item of law that constitutes the whole or 93026  
part of a codified or uncodified section of law contained in this 93027  
act, or if any application of any item of law that constitutes the 93028  
whole or part of a codified or uncodified section of law contained 93029  
in this act, is held invalid, the invalidity does not affect other 93030  
items of law or applications of items of law that can be given 93031  
effect without the invalid item of law or application. To this 93032  
end, the items of law of which the codified and uncodified 93033  
sections contained in this act are composed, and their 93034  
applications, are independent and severable. 93035